

REPORT
OF THE
SPECIAL COMMITTEE ON RAILROADS,

APPOINTED UNDER A RESOLUTION OF THE

ASSEMBLY,

FEBRUARY 28, 1879.

TO

INVESTIGATE ALLEGED ABUSES

IN THE

MANAGEMENT OF RAILROADS

CHARTERED BY THE STATE OF NEW YORK.

REPRINTED FOR CIRCULATION BY THE CREDIT VALLEY RAILWAY COMPANY.

TORONTO:
THE GLOBE PRINTING COMPANY.

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STATE OF NEW YORK.

No. 38.

IN ASSEMBLY,

January 22, 1880.

REPORT.

To the Honorable, the Assembly of the State of New York :

The undersigned, a committee appointed in pursuance of the following resolution, adopted February 28, 1879 :

Resolved, That a special committee of five persons be appointed, with power to send for persons and papers, and to employ a stenographer, whose duty it shall be to investigate the abuses alleged to exist in the management of the railroads chartered by this State, and to inquire into and report concerning their powers, contracts and obligations ; said committee to take testimony in the city of New York, and such other places as they may deem necessary, and to report to the legislature, either at the present or the next session, by bill or otherwise, what, if any, legislation is necessary to protect and extend the commercial and industrial interests of the State ;

And also of a resolution adopted March 12, 1879, of which the following is a copy :

Resolved, That the number of members of the special committee of investigation into the relations of the railroads to the State be increased from five to nine, and be appointed by the speaker ;

And also of a resolution adopted March 27, 1879, of which the following is a copy :

And it is further resolved, That the said committee be and is hereby authorized to sit during the recess of the legislature, and take testimony in the city of New York and elsewhere in the State as they shall determine, and cause their proceedings to be printed daily ;

respectfully

[Assem. Doc. No. 38.]

REPORT.

Immediately after the appointment of your committee, a circular letter was addressed to commercial organizations of the different cities of the State, agricultural societies of counties, State Grange, Farmers' Alliance, mayors of cities, etc., asking them to appear before the committee personally, or by communication, at a meeting to be held in Albany on the 26th day of March, 1879, and particularly specify the abuses deemed to exist in the management of the railroads of the State. That letter met a general response. The Chamber of Commerce, and the Board of Trade and Transportation of the city of New York, submitted in detail charges of maladministration, which were generally indorsed as covering the whole ground. (See first 36 pages of Proceedings.) In April following, Presidents Vanderbilt, of the New York Central & Hudson River Railroad, and Jewett, of the New York, Lake Erie and Western Railroad, addressed to the committee a joint letter reviewing the charges which had been made, and taking issue generally thereon. (Report of Proceedings, p. 37.) Upon the issue thus formed the committee proceeded with its labors.

Prior to offering the resolution which gave rise to your committee, the Chamber of Commerce and Board of Trade and Transportation had given assurances that they had already in their possession all the evidence necessary to sustain the charges made against the railroads, and offered to incur such expense as might be necessary thoroughly to proceed with the investigation. This offer was made in view of the contemplated opposition to the passage of the resolution, and to avoid the opposition that it was known would arise from economical quarters in case any provision was attempted for legal expenses.

It was easily foreseen that the investigation would consume the entire interval between the two sessions. The members of the committee having active business pursuits to attend to at home, and, as it is well known, receiving no compensation whatever for their services on the committee, did not feel like assuming, unaided, the labor of examining the mass of matter to which our attention was soon directed from various quarters, and putting it in proper shape to be submitted in evidence; therefore the committee asked the fulfilment of this offer, and requested the employment of counsel as an aid to them in the prosecution of their labors. Simon Sterne, Esq., was retained by and appeared on behalf of those bodies. He attended the principal meetings of the committee, and, under its direction, mainly conducted the examination of witnesses. J. H. Martindale, Esq., of Rochester, appeared for the State Millers' Association and the agricultural and manufacturing interests in the interior of the State.

It is due that the committee express its obligation to the Chamber of Commerce and the Board of Trade and Transportation, and especially to Charles S. Smith and F. B. Thurber, of the committees representing those bodies, for their co-operation and assistance, which contributed largely to the success of our work; and also to Mr. Sterne for the able, painstaking and thorough manner in which he performed the duties assigned him. His previous study of the subject and fund of information possessed were a very material aid in prosecuting our labors and developing facts sought for.

The railroads were represented by the best legal talent—Judge William D. Shipman representing the Erie, Hon. Chauncey M. Depew, Frank Loomis, Esq., and A. P. Laning, Esq., the New York Central. Other interests and individuals were also represented by different attorneys at various stages of the proceedings.

Your committee commenced taking testimony June 12th, in the city of New York, held several sessions in that city, as well as in Rochester, Buffalo, Ogdensburg, Utica, Albany and Saratoga, taking only such adjournments as were necessary thoroughly to prepare and digest the evidence for the ensuing meeting, and closed their investigation December 19th, having taken in all more than 5,600 pages of testimony.

The investigation has been as complete and exhaustive as, during this period, it could be made. The Railroads, though frequently objecting, have complied with all the requirements of the committee. They placed their books at our disposal, and the evidence adduced is mainly obtained from the books and the officers of the companies examined. It therefore admits of little contradiction on the part of the railroads.

The entire answer of the roads was submitted by Mr. Blanchard, Assistant President of the Erie, who reviewed all questions raised by the investigation, and testified both as to facts and as an expert. The instrumentality of their reply was well chosen. Mr. Blanchard's comprehensive grasp of the subject, added to his thorough knowledge of detail, his clearness and cogency of expression, rendered him exceptionally competent to discharge the duty assigned him.

It has always been recognized as one of the paramount duties of the State to provide means for the inter-communication of its people and an exchange of commercial productions. This was originally the turnpike; which continued as the only means of inland communication until the ease and facility of water communication suggested and brought forth the canal. Connecting by an artificial, navigable water-way, two natural bodies of water, was a long stride in advancing commerce. Its importance in public estimation can easily be realized by recalling the exultation that crowned the completion of the Erie Canal, or by marking the prominence accorded in history to the man who conceived its construction. Its actual importance may be realized

by marking the growth of our metropolis, as this new-born artery poured into her harbor the products of the west. But another and grander advance was in store. The railroad burst upon the scene. Crude, experimental, at first distrusted by capitalists, it turned in its infancy to the State to ask maternal support. It asked not in vain. It was given every concession by the legislature. It grew up under the fostering policy of the State. Strengthened by bounty and armed with power of eminent domain, it went forth, extending its tracks until we find our State grid-ironed by railroads, comprising within its limits 5,550 miles, and within the United States, in December, 1878, 81,841 miles. Along these iron rivers flow the currents of commerce that formerly sought an outlet through the rivers of nature—these iron rivers that span the country, toying with nature's obstacles as with a myth. They, too, have fountain heads; you could count them on the fingers of your hands and have fingers to spare—heads that give direction to the currents of commerce that flow along to the sea, gathering in their tributaries and swelling their volume as they go.

It was originally supposed that only passengers and not freight, except in the most limited degree, could be carried by rail. Restrictions were accordingly thrown around the passenger traffic, and it has been, at all times and is to-day, carefully guarded and regulated by positive statutes. The roads were forbidden to carry freight in opposition to the canal; and later, when they—the railroads now forming the New York Central—were found carrying freight, they were required to pay to the canal fund a sum equal to the tolls exacted for a similar carriage by canal. This restriction was soon removed and the railroads left to their own management, practically unrestricted and uncontrolled as to carriage of freight, and remain so to-day. True, April 14, 1855, a law was passed creating a board of railroad commissioners. But this was found an inconvenient interference with railroad plans, and so the roads paid the commissioners the full amount of their salaries for the term for which they were created (\$25,000), to silence their opposition, and then procured the repeal of the law creating the commission, in April, 1857. (Testimony, p. 2724.)

In discharging the duty it owed to commerce and the public, the State either had to construct railroads on its own account or authorize corporations or associations to do so, clothing them with the prerogatives of the State for that purpose. In view of our costly experience in State management of various institutions, and the extent to which the managers and attachés of those institutions become factors in our politics, there is no doubt the State acted wisely in committing the construction of railroads to associations of citizens. There is no doubt of the wisdom of lending State aid to encourage railroad building during its incipient and experimental period. It grew, however, into an abuse. The State has contributed in

aid of railroads in round numbers, \$8,000,000, and various localities, by donation and investment in stock and bonds, nearly \$31,000,000 (see Exhibits, pp. 3 and 238-43); for which unwise action so many localities are now suffering. Mr. Vanderbilt correctly states the relation of railroad corporations to the State, as follows:

"The railway corporation is organized primarily, for the benefit of the people of the State, and the pecuniary consideration is secondary, but necessary, to induce the citizens of the State to assume the performance of the duty of the State."

The mistake was in not providing proper safeguards to protect the public interest, and hold the roads to a strict accountability for their transactions. Thus, through the laxity of our laws and the want of governmental control (measurably excusable, considering the unforeseen possibilities of railroad development at the time of the enactment of those laws, but no longer pardonable in the light of the evidence herewith submitted), have crept in those abuses hereafter mentioned, so glaring in their proportions as to savor of fiction rather than actual history.

This investigation must prove of value to the railroads as well as the public, for, while disclosing their mismanagement, it will clear up and dissipate many erroneous impressions in relation to supposed abuses.

ALBANY BRIDGE.

The charge so often made, that the Albany Bridge is largely the private property of prominent railroad officials, and makes enormous dividends by charging three dollars a car for freight and ten cents per passenger for all traffic crossing it, is erroneous. Such charges were attempted, but competition compelled their immediate abandonment; and now all the bridge earns from freight crossing it is the mileage proportion (two miles) assigned to it as forming a part of a continuous line. No separate books are kept of the freight or passenger traffic of the bridge. It is owned, three-fourths by the New York Central and Hudson River Railroad, and one-fourth by the Boston and Albany Railroad; and these roads keep the bridge in repair, in proportion to their ownership.

The fare from East Albany to New York is \$3.00; from Albany to New York \$3.10—a virtual charge of ten cents for crossing the bridge; but the latter charge is strictly legal, the Hudson River road, under the general law of 1850, having the right to charge three cents per mile for passengers. (49 N. Y. Reports, 455). Separate books are kept showing the amount of receipts from foot passengers only by the bridge company. (For particulars see Testimony of E. D. Worcester, p. 1097).

FAST FREIGHT LINES.

The Red Line, Blue Line, White Line, Canada Southern, Great Western, Hoosac Tunnel, Erie and North Shore Despatch, and all other fast freight

lines running over roads in this State, except the Merchants' Despatch, are organized for the purpose of constituting a through line between distant points, as follows: The various roads which are to constitute the through line furnish a number of cars in proportion to their mileage, form an organization, appoint officers to solicit business and manage the affairs of the line. Each road receives a specified mileage per car (three-fourths of a cent), and bears the expense of the organization, and shares in the profits of the line in proportion to the cars furnished, each road retaining absolute control over the rate of transportation on its line. The object of these organizations is to enable a through shipment of goods to any point, however remote, without breaking bulk. They are known as co-operative lines; and are organized in the interest of the public, and in the interest of good railroad economy.

The Merchants' Despatch is a non-co-operative line. It is a partnership or association having a capital of three millions of dollars, represented by thirty thousand shares, twenty-seven thousand of which have been issued, and twenty-five per cent. paid in on each share of stock issued. The New York Central & Hudson River owns between twelve and thirteen thousand shares, the American Express Company six thousand five hundred, the Lake Shore & Michigan Southern three thousand, the Cleveland, Columbus & Cincinnati Road one thousand shares, Springfield & Cincinnati Short Line between four and five hundred, Great Western of Canada one hundred and fifty, W. H. Vanderbilt twenty, W. K. Vanderbilt one hundred and fifty and holds one hundred and fifty as trustee—about 24,000 shares held by different railroads and three thousand by individuals. It furnishes 3,451 cars, and gets three-quarters of a cent per mile for each mile any of its cars runs, and five per cent. on fourth-class and special classes, and fifteen per cent. on all other classes of freight handled, for soliciting business.

As to soliciting business, they do precisely the same that the agents and officers of the co-operative lines do, with this difference, that it pays its agents and officers out of its commissions, while the agents of the co-operative lines are paid by the respective roads constituting the line. The Merchants' Despatch was formerly owned by the American Express Company, and is an offshoot of that organization. It retains all the agencies for soliciting business which belonged to that Company; and it is claimed that its organization is more effective in securing freight for transportation than any of the co-operative lines. It has paid ten per cent. dividend for the past four years, and twenty-five per cent. of the capital only having been paid in, it amounts to an annual dividend of forty per cent. It is in evidence that the New York Central, by reason of its large ownership of stock in the Merchants' Despatch, earns more for its stockholders on the business done by this line than it would under the co-operative system. What it gains,

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of course, the western roads lose ; and such a state of affairs cannot last long. There is nothing to prevent all this stock finding its way into individual hands. However properly this particular company may be managed, it is wrong in principle, and admits of all the abuses that have been formerly practised upon stockholders through similar organizations. This is not the opinion of the committee only, but of good railroad men as well. (See Testimony of G. R. Blanchard, pp. 2961-6.)

DRAWING ROOM AND SLEEPING CAR COMPANIES.

The New York Central Sleeping Car Company is a partnership with a capital of \$2,784,000, representing one hundred and eighty-one cars, with patents, offices, &c. Considerably less than a majority of its stock is owned by officers and directors of roads over which it runs cars. It runs drawing room and sleeping cars over 7,000 miles of road ; 1,200 miles in this State in winter, and 1,400 in summer.

By contract with the New York Central & Hudson River road (Exhibits pp. 182, 185, 187, 190)—and its contracts with other roads in this State are very similar—it places cars upon the road, keeps them in repair, and pays the road twenty per cent. of its gross earnings for hauling them. There is no special law in relation to drawing room cars in this State. They are placed upon our roads under the original Railway Act authorizing any one to place cars upon any road with the consent of the company, a law passed at a time when it was thought that the railroads would simply own the road-bed and track, and keep it in repair, and that other people would furnish locomotives and cars, and transport goods by paying a proper toll, just precisely as they use the canal. The courts hold the authority under the statute ample ; so there can be no question as to the validity of the contract.

The following is an extract from the Testimony of Mr. Wagner (Testimony, p. 2439) :

“Q. I want to call your attention to the statute fixing the fare upon sleeping cars, which says : ‘Such patentee or his legal representative may charge for the use of ‘said car, in all cases, to each passenger occupying the same, forty cents, which sum ‘shall entitle such passenger to the use of a berth for one hundred miles ; and the said ‘patentee or his legal representative may charge at and for the rate of three mills for ‘every additional mile, but in no case shall the charge exceed eighty cents ;’ you are familiar with that law, are you ? A. Yes, sir.

Q. Are not your charges in excess of that ? A. I don’t know ; I am not aware that they are in excess of it ; to Syracuse we charge \$1.50 ; it is three hundred miles.

Q. It could not exceed eighty cents ? A. For a single berth ; that is, \$1.60 ; for a double berth we charge \$1.50.

Q. You charge \$1.50 for a double berth ? A. Yes, sir.

Q. Do you furnish single berths ?—could a man upon any of your sleeping cars call for a single berth and receive it ? A. We have very few.

Q. Explain this matter fully ? A. We started with one double berth and two single berths ; there were a good many started with three single berths, but on my cars we first started with a double berth below and two single berths.

Q. Two single berths above ? A. Yes ; people laid on cushions in those days ; no mattresses or sheets, or anything of that kind ; after a while people objected to single

berths; they would not lay on those shelves; we had to change all our cars, and made them all double berths; that is, virtually; there is not such a thing known now, except in the end of the car we have sometimes a lounge or a single berth; we have no call for them; none reported to me in fifteen years.

Q. If a call was made could you furnish it? A. If a man insisted, of course we could give him a double berth.

Q. Do I understand you have single berths? A. Yes, sir; we have a lounge or sofa like in the end of, not all the cars, but most of them, that can be used as a single berth.

Q. Do you sell tickets to two different people for what you call a double berth? A. Very often; I have counted five in a berth—children."

Sleeping car fares range from \$1.50 to \$2.00; for drawing room car fare—see Testimony, page 2436.

The present charges were explained as follows: The above law was passed when the cars were mainly filled with single berths, the back portion being raised eight or ten inches above the front, forming two single berths, instead of being placed on a level, as now, and forming a double berth. The cars then were cheap, costing about three thousand dollars, the bedding of a rude kind, and the whole of such a character as not to attract travellers; but subsequently cars were constructed costing from fifteen to twenty-five thousand dollars, elegantly furnished, with improved ventilation, and soon the public were attracted to their use. The single berths were objectionable and not called for, people preferring to pay double and get a double berth. The cars were remodelled, and single berths gradually disappeared. Thus, from New York to Syracuse they would be entitled to charge for two berths, \$1.60; they charge an individual for a double berth, \$1.50.

Mr. Wagner was asked the following questions on that subject:

"Q. Now, as to the fare from New York to Buffalo; you say it is \$2; that exceeds \$1.60? A. Yes; if a passenger takes a sleeping car and a drawing room car, that is in addition. * * *

Q. I understand you to say he can leave his sleeping car at Syracuse? A. Yes, sir.

Q. And get into a coach? A. Yes; that is, after breakfast.

Q. Does the sleeping car train leaving here at night get to Syracuse in season for breakfast? A. Yes, sir.

Q. And the extra charge which you make from there to Buffalo or Suspension Bridge you would justify under the charge for drawing room cars? A. That is the way we consider it."

As to the relations of this company to the New York Central Railroad, their contract is the most favorable to the road of any in the country, and the committee are of opinion that the interests of the stockholders of said road are in no wise prejudiced, and that they have no cause for complaint.

The only remaining question to consider is, whether the charges for drawing room and sleeping cars are unreasonably high, and call for specific regulation by statute. Drawing room cars are essentially a luxury, and their occupation is entirely voluntary. The railroads are obliged to furnish seats in first class coaches, and, in case they do not, any passenger is entitled to occupy a seat in any drawing room car that may be attached to the train

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without extra charge. Sleeping cars are not a luxury, but a necessity. In the active pursuit of business, they are indispensable to a proper economy of time and the proper and successful prosecution of one's business. They are equally indispensable to those who travel for pleasure; and the convenience they afford to the public should be furnished as cheaply as possible. There would seem to be no propriety in requiring sleeping car companies to charge less for lodging, accompanied with transportation, than would be charged in the first-class hotels of the country, and the advantage of carriage and sleep combined might properly be urged as a reason for charging slightly more. It is in evidence, that first class passenger fare on the New York Central & Hudson River road, plus drawing room or sleeping car fare, is less than first class passenger fare alone on any other road in the world, except it be between competing points where the usual fare is varied.

After all, these rates should be determined, not abstractly, but with reference to the cost and what the service can reasonably be done for. From the evidence, it appears that twenty-five per cent. of the business is done in the State of New York and the remainder in other States, and in Canada. The portion of the capital of this company invested in this State is \$1,000,000. The estimated gross earnings in the State of New York for the year ending March 1, 1879, were \$269,000; the estimated proportion of expenses in the State of New York, \$172,902.01, or a profit of nearly ten per cent. on the investment in this State.

The Pullman Palace Car Company, a corporation whose stock is on the market, runs cars over the Erie road under a contract dated September 5, 1871, and, with certain conditions, continuing fifteen years. (Testimony, pages 3383-4.) By this contract this company gets from the Erie road four cents per mile for every mile the cars are hauled. President Jewett effected a reduction of the mileage from four to three cents. This contract seems very onerous indeed, and to the stockholders of the Erie road unjust. Any company could afford to furnish drawing room cars and sleeping cars to be hauled at a mileage of three cents even if they were kept locked and no passengers carried at all.

For drawing-room and sleeping car fares on the Erie road see Testimony, pages 3512 to 3525.

The passenger traffic of the Central road is a profitable one. It is in evidence that the passenger traffic of the Erie road does not pay, and becomes profitable only as an indispensable adjunct in the operation of the road and the transportation of freight. The legislature has already recognized the propriety of different charges on different roads in accordance with the volume of traffic, varying from two to five cents per mile to each passenger; and if this recognized difference is a proper one, these various roads are entitled to the same consideration in any attention which the legislature may give to the regulation of drawing-room or sleeping car fares.

EXPRESS COMPANIES.

The claim that railroads ought to do their own express business does not seem to be well founded. Any road could do the express business on its own line easily, and perhaps with better economy than to relegate it to other parties; and by co-operation it might be done over all roads. This co-operation it may be difficult to obtain. Were all the roads in the State—stated by Mr. Depew to be 70 in number—to do their own express business, there would naturally be an increased expense, in transferring from one company to another, that would doubtless prejudice the public interest by increasing the cost of service. The advantage of an express company is in enabling one to send property over one or many roads, the goods all the while being in charge of one responsible company. Very much of the service which express companies render to the public is not at all germane to the business of transportation. Their contracts are sufficiently favorable to the railroads.

Their rates to the public were not for want of time inquired into. They are bound by contract to "reasonable rates," and their charges are held in check by competition and also by the fast freight lines, which run at about half the rate of speed of express trains. (See Testimony, pp. 3363-4-5.)

STOCK YARD COMPANIES.

The Union Stock Yard and Market Company has the exclusive control of the terminal facilities of the New York Central, under a lease dated January 29, 1875. (Exhibits, p. 350.) And all cattle delivered in New York must, by the terms of this lease, pass through this yard, and must pay the yardage. Senator John R. McPherson has the same control of the Erie cattle business, under a similar lease (Exhibits, p. 261); and then by agreement the whole cattle business of the port of New York, including the Pennsylvania and the Baltimore & Ohio roads, is pooled. (Testimony, pp. 1728-9.)

Since all cattle must pass through these yards they become a necessary unit in the route of transportation. It may be stated as a general proposition that railroads ought not to farm out to individuals or associations any portion of their business which can as well be transacted by the roads. The objection to a road's farming out its functions is that such instrumentalities have been the most fruitful sources of abuse, and are usually attended with additional taxes upon transportation.

Cattle yarding differs from warehousing in requiring extra care, feed, etc., for the cattle; and the railroads claim that this is no part of the business of transportation. These leases are sufficiently favorable to the roads; and, contrary to the general impression, the stock-yards are independent

organizations not officered or controlled by the railroads. They charge forty-five cents per head on cattle, six cents on sheep and eight cents on hogs, and forty-five to fifty dollars a ton for hay feed.

Mr. Blanchard, the Assistant President of the Erie road, testified on that subject as follows :

"Q. In your judgment, is that a reasonable charge? A. I should think that the charge could be reduced one, and perhaps two cents a head on hogs, and that it should be done.

* * * * *

Q. You think that no other class of animals than hogs would bear a reduction? A. We have a very small business in sheep and calves relatively, and I only know generally that there are more difficulties as to the driving and handling of them; and that all the sheep are yarded; that nobody else has yards for sheep; that the sheep slaughterers use these yards constantly, while some of the hog men do not; I therefore think the rate for yardage on sheep is, perhaps, what it probably should be.

Q. Do you not think that forty-five cents a head for yardage and weighing, and \$50 per ton for hay, is rather an exorbitant charge? A. I think it is."

The committee are of the same opinion.

See also Testimony of John B. Dutcher, pages 1719-57.

SPUYTEN DUYVIL & PORT MORRIS RAILROAD.

The Spuyten Duyvil & Port Morris Railroad is capitalized at actual cost and leased to the New York Central & Hudson River Railroad Company at a rental of ten per cent. upon cost.

(See Testimony of W. H. Vanderbilt, p. 1227, etc.)

The Syracuse Junction road, Buffalo Junction road, and other similar organizations admit of no criticism.

It is unnecessary to review the subsidiary corporations and inside rings that have barnacled the Erie road during a large part of its existence, and made it the football of the street, the prey of cliques and strikers, used its credit and its revenues in reckless speculation in properties not at all consonant with the proper functions of a railroad, weighting a valuable franchise with colossal obligations that must look to the future growth and development of the country for a return, leaving it the owner of an opera-house and coal lands of which Mr. Blanchard, at page 3290, says,

"I regard it as one of the blunders which started some of the misfortunes of the Erie railway that they invested in coal lands,"

the possessor of onerous contracts with stock yards and branch lines, and much other less valuable property, and yet without funds or credit sufficient to enable it to own all its cars and other indispensable property of a railroad.

It is but just to President Jewett and his associates to state that with their trust they inherited a legacy of debt, impaired credit, and mismanagement that must continually embarrass their action, and, of necessity, in some instances render their only course a choice of evils. The investigation, however, fully establishes an honest disposition on their part, and an earnest effort to extricate the road from its embarrassments.

ELEVATORS.

No railroad terminating in New York owns any grain elevators except the Central ; and elevating at its elevators is practically free upon all goods accorded free lighterage, which covers all exports and much else. The Erie has one in process of construction.

The elevator management at Rochester calls for no criticism.

The elevator association at Buffalo is a barnacle upon the commerce of the canal, and seems to have been organized for the purpose of tolling the commerce of that port to the greatest possible extent. There are thirty-four elevators, including floaters. The Central road owns two ; the Erie controls one and has just completed the construction of another ; the remainder belong to individuals. Twelve only are working elevators. The elevating of the port is pooled, 350 shares in the pool, of which the railroads have the controlling interest. It makes no difference what elevator does the work, all get their respective shares of the money earned. One of these elevators has not been used in twenty years, and many of them, according to the testimony, were built for the sole purpose of coming into and receiving a share in the pool.

The following Testimony of Washington Bullard, Superintendent of the Union Steamboat Company, shows the condition of affairs (Testimony, p. 2324) :

“ Q. There is an Elevator Association here, is there ? A. Yes, sir.

Q. They take in all the floating elevators ? A. I think now every elevator is in.

Q. Are all these elevators employed to their capacity ? A. No, sir ; they have not been usually, anything like it.

Q. I mean does the business of the season require as many elevators as there are constructed ? A. Since I have been here they never have been all employed.

Q. What proportion now is there in excess of what is necessary to do the business ? A. There is a great deal of elevator property, but a few months ago two of them burnt up, which was a benefit ; there has always been a surplus of elevator property which draws from the commerce of Buffalo.

Q. Twenty-five per cent. ? A. Yes, sir ; sometimes fifty per cent. and sometimes seventy-five per cent.

Q. And the charges for elevating are made sufficient— A. To afford a big revenue on all that property.

Q. And only a portion of it is actually employed ? A. Yes, sir.

Q. What do you consider an extravagant price— you used that expression ? A. There would be lots of money made at half a cent, I understand.

Q. What is the usual rate ? A. To-day it is a cent.

Q. Then if there was not any more elevating property employed than was necessary to do the business, the elevating can be done for half a cent ? A. It could be done, I apprehend, for a quarter.

Q. How about the charge for trimming ? A. I guess that you cannot manage ; there are too many voters in it.

Q. What do you mean by that ? A. Every elevator maintains about it probably three times as many people who are trimming as are needed, and the extravagant price is charged for that purpose.

Q. Because of their political influence ? A. I think that it has a bearing upon it.

Q. What is the present charge for trimming ? A. The charge now for shovelling is \$3.50 and \$4 a thousand bushels.

Q. \$3.50 and \$4 a thousand bushels? A. Yes, sir; \$3.50 per thousand for sail vessels, and \$4 for propellers—for a thousand bushels.

Q. Is there any other charge than the elevating and the trimming? A. That is all.
Q. That involves the transfer from the vessel to the canal boats? A. I think that is all.

Q. Tell us what this trimming could be done for on good principles of business economy? A. For half the money. When I made this allusion to these voters, there may be a misapprehension as to what I mean; I do not mean that the elevator proprietors use them as voters. It is a long story to explain fully what I mean about that.

Q. Let us have it. A. These men who trim vessels and canal boats in Buffalo are, as I said before, voters; they are considered and would be considered in asserting any demand they made.

Q. By either political party? A. If they were riotous it would be a consideration with the authorities of Buffalo; if they were riotous in asserting their demands or the price of trimming, it would be considered by the authorities of Buffalo, and they would not be put down with that promptness and decision that they would be otherwise, if they were not voters. That is what I mean; it is precisely what I mean; this thing has to be submitted to on that consideration. Nobody would dare get up and take action to have this thing corrected by the proper supply of labor, which could be had otherwise. I think you can understand what I have said about it.

Q. It is important, as getting at the exact matters that the canal has to contend with? A. It is pertinent precisely to what you are after, in my opinion."

Also the following testimony of Niles Case:

"Q. What, in your judgment, is a reasonable charge for elevating at this port? A. Half a cent a bushel is a large price, in my opinion.

Q. What would be a fair price? A. I think that a quarter of a cent would pay an elevator for transferring.

Q. Have you ever conversed with elevator people upon that subject? A. Yes, sir.
Q. How do they express themselves? A. I have heard elevator owners say here that they would not want any better business than a quarter of a cent, and be guaranteed a reasonable amount of work, and they would not ask enough to keep them going all the while, but a reasonable portion of the time; they would not want any better business than a quarter of a cent.

Q. Then the elevator gets this $\frac{1}{4}$ from the vessel, and the $\frac{1}{4}$ or $\frac{1}{2}$, or whatever it may be, from the grain, and half of the shovelling in addition? A. Yes; so it costs for the shovelling and the trimming, to transfer grain—it costs from steamboats \$5 a thousand; it costs a dollar a thousand to trim it into the canal boats, in addition to this other shovelling; it makes it a pretty costly business here for handling grain."

See also testimony of Mr. Perew, p. 2356; Mr. Ensign, p. 2285; and other witnesses examined at Buffalo.

There is an association of elevators at New York city, described by Mr. Blanchard at page 3152.

"Q. These floating elevators combine together to do the work and fix the rate of elevating in New York? A. Yes, sir.

Q. Precisely the same as they do at Buffalo? A. Precisely.

Q. And you are not able to say whether there are any stationary or land built elevators in this association or not? All the Brooklyn elevators are stationary and land built, a very large number—

Q. And they are all in it? A. I think they are all in it."

A reduction of tolls is usually attended by an increase of the charge for elevating. The attempt to cheapen transportation by doing away with tolls upon the canals must inevitably result in failure, so long as the

entrance to the canal and the point of delivery are under the control of such combinations as these.

WATERED STOCK.

The financial history of the Erie road is a thrice-told tale, and needs no detailed recapitulation. It is capitalized at about \$155,000,000. According to the testimony of Col. Baleh, a former employee of the road, and who was employed to make an inventory of its property, the road and its equipment could be replaced to-day for \$40,000,000, and that \$25,000,000 more would cover the additional value of the road as represented by stocks, bonds and interest in other corporations. (Testimony, pp. 850-851). The company's report to the State Engineer in 1873 shows, under head of construction account, forty-seven millions "discount on sale of convertible bonds," etc. This item covers a charge to construction account of "legal expenses \$891,955.66" for the year ending September 30, 1870. (Testimony, pp. 843-45). These instances serve to illustrate the fact that the construction account of this road not only covers the proper cost of the road, but, like charity, it covers a multitude of sins. According to the same witness, nothing has been improperly charged to construction account since 1872. The amount of what is popularly termed "water," which enters into the capitalization of the Erie road, was differently estimated, and ranged up to \$70,000,000. (See Testimony of Mr. Robertson, pp. 986-7-8-9. Testimony of Mr. Gully, p. 2454, etc.)

While some attempt was made to throw discredit upon the testimony of some of these witnesses, it should be noted that not one particle of evidence was offered by the railroads tending to correct or contradict their testimony. The amount of "water" in the Erie was calculated from the evidence by an expert, and made \$53,163,881. It matters little for the purposes of this report, whether fifty or seventy millions of dollars, representing nothing save mismanagement, prodigality and pilfering, have been injected into the capitalization of this road, and are now seeking to drain interest and dividends from the commerce of the country. In either case the wrong is equally glaring and the demand for the remedy equally imperative. However improperly the obligations of this road have been increased, these obligations have gone into the hands of innocent holders under cover of law, and their value is beyond the power of courts or legislature to attack. Your action must be addressed to the future.

In addition to this "water," another most deplorable load was heaped upon the back of this over-burdened corporation under the administration of Mr. Watson. A loan of \$25,000,000 was placed on the English market, and one McHenry was the party through whom it was placed. Pending its negotiation two successive dividends, of limited amount and of very questionable propriety, were declared. Of the ten millions of convertibles

first placed the road received eight millions of dollars; of the remaining fifteen millions the road received \$6,200,000. Thus, out of the total loan of \$25,000,000, the road received \$14,200,000, and contested claims against worse than worthless parties for the balance; its bonded indebtedness, calling for interest, increased \$25,000,000, its revenues \$14,200,000. (See Testimony of President Jewett, pp. 1368-9 and 1390).

Could any more certain or expeditious course be taken to bring a road to ruin than such management as this? It was urged that confidence was had in McHenry. Something more than confidence ought to have been had as security for honest conduct, and if railroad managers expose their trust so recklessly, the legislature must interpose some protection for stock and bondholders and the public.

The contract of consolidation of the ten roads forming the New York Central Railroad was made in 1853, in conformity to an Act of the legislature of that year.

(See Exhibits, p. 28.)

The stock and bonds of the several roads were as follows:

Albany & Schenectady.....	\$1,621,800
Schenectady & Troy.....	650,000
Utica & Schenectady.....	4,500,000
Mohawk Valley.....	1,575,000
Syracuse & Utica.....	2,700,000
Syracuse & Utica, direct.....	600,000
Rochester & Syracuse.....	5,608,700
Buffalo & Rochester.....	3,000,000
Rochester, Lockport & Niagara Falls.....	2,155,100
Buffalo & Lockport.....	675,000
Total.....	<u>\$23,085,600</u>

Stock of the new corporation was issued in exchange for the stock held in these several corporations. These several roads had enjoyed different degrees of prosperity, their stocks possessed different values, and their relative differences were adjusted by issuing premium bonds. For instance, in the language of the agreement, "To the stockholders of the Albany & Schenectady Railroad Company, it is hereby agreed to allow seventeen per cent., or seventeen dollars on each one hundred dollars of the capital stock thereof;" the Utica & Schenectady Railroad Company was allowed fifty-five per cent. premium, the Mohawk Valley Railroad—a road authorized to be built from Schenectady to Utica, on the south side of the Mohawk river, and which was never built, nor any part of it—was put in at fifty-five per cent. premium; Syracuse & Utica, fifty per cent.; Syracuse & Utica, direct—a

road which was never constructed, nor any part of it—was also put in at fifty per cent. premium; Rochester & Syracuse, thirty per cent.; Buffalo & Rochester, forty per cent.; Rochester, Lockport & Niagara Falls, and Buffalo & Lockport Railroad Company, twenty-five per cent. Stock of the Schenectady & Troy road was put in at a discount of twenty-five per cent., its stockholders having to pay twenty-five dollars per share in exchange for the stock of the new road. The amount of said premiums was \$8,894,560; in other words, so much water or fictitious capital was added to the road.

The subsequent watering process upon this road is succinctly described by Mr. Robertson, at page 995 of the Testimony, as follows:

“Q. What was the amount of stock dividend and increase of stock in 1868 and 1869, of the two railways, the New York Central and Hudson River, severally and upon consolidation? A. It was over \$44,000,000 between 1868 and 1870, when the consolidation was effected.

Q. There was one dividend of eighty per cent., or rather one stock dividend of eighty per cent.? A. Yes, sir; there was a dividend; I suppose you may call it a dividend of eighty per cent. on New York Central proper, in 1868.

Q. That is to say, a holder of a \$100 share received a certificate of \$80? A. \$180.

Q. \$80 in addition? A. Yes, sir.

Q. Under what terms? A. Under the terms of the consolidation, which was intended to make a capital stock of both roads of \$90,000,000 in round figures; there was a further increase of eighty-five per cent. on the Hudson River Railroad stock alone, and another increase of twenty-seven per cent. on the New York Central proper.

Q. And that, combinedly, makes \$45,000,000? A. Not quite; forty-four millions and some hundred thousand dollars.

Q. How did that increase compare; you have already stated it was about double the original stock capital? A. Very nearly.”

Also by Mr. Worcester, secretary of the New York Central & Hudson River Railroad (Testimony, p. 1116):

“The New York Central didn't double its stock or affect its stock; it couldn't; it was not authorized to; the Hudson River never doubled its stock—it was not authorized to; the Consolidation Act authorized railroads to consolidate and form a new company; the new company was authorized to fix its capital stock; the capital stock of the New York Central & Hudson River Company—the new company—was made a certain amount; and that amount was about twice the original capital of the New York Central and Hudson River Railroad alone. It was very nearly double the amount of the combination of those two capitals.”

Thus, as calculated by this expert, \$53,507,060 were wrongfully added to the capital of these roads. At the session of the committee of October 13th, the Chairman called the attention of Mr. Depew, attorney of the New York Central Railroad, to the fact that the committee would infer from the evidence as it then stood that the dividends above referred to were simply “water,” and that if any portion thereof was properly construction account, the committee desired him to submit specific evidence on that point. No evidence whatever was offered by the railroads upon that subject. The only answer made, and the only answer to be made, is that the legislature sanctioned it. True, the legislature of 1869, upon the report of a committee, authorized the consolidation of adjoining railroads, and authorized them to fix their capital stock. Under this law the New York Central and Hudson

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River roads were consolidated, and their stock fixed at such a sum as to cover and legalize the several scrip dividends and "premium bonds" issued. These dividends were thus legalized upon the pretence that they represented former earnings of the road and real values, which the stockholders were entitled to share. The sworn reports of the company up to that date show no such surplus, nor any corresponding amount as having entered into construction, and if properly and truly made there could have been none such. Either a gross wrong was perpetrated upon the stockholders prior to 1869, or a gross wrong was perpetrated upon the public at that time. The premises admit of no doubt. These several dividends were fictitious, and the said "premium bonds." The legislature legalized it ! The legislature too passed the Erie "classification bill ;" but does any one imagine that the passage of those laws was the deliberate act of conscientious conviction on the part of the bodies who passed them—that a patriotic sense of public duty and regard for the public interest induced their passage ? It is proper to remark that the people are quite as much indebted to the venality of the men elected to represent them in the legislature as to the rapacity of railroad managers for this unfortunate state of affairs.

There is no redress for the past, either as to the Central or the Erie. On the former road the legislature has lent its sanction to the process of capital watering ; on the Erie the bonds and stock representing misapplied funds have gone into the hands of innocent holders, the whole road has passed through a reorganization scheme under the direction of the court, and there is no possible remedy for the past. There is in the power of the legislature a remedy for the present and the future. Do not imagine that the process of stock watering is ancient history, or that it belongs to a period of inflation not likely to occur again. So late as June, 1879, parties in New York, by a clever arrangement, added thirteen millions of watered stock, pure and simple, to the capital of the elevated roads in that city. Stock watering has always been practised wherever the possible earnings of a road would warrant it, and it always will be done in future where the possible earnings of a road warrant an increase of capital, until the strong arm of the government prevents.

TERMINAL FACILITIES.

The cities of New York and Brooklyn, from their insular position, enjoy peculiar advantages in receiving and forwarding freight by water. What is to their advantage in this respect is to their disadvantage as a railroad terminus. So long as freight was brought from the west via canal and Hudson river this harbor supplied every need, and was entitled to the high encomiums so oft pronounced upon it ; but with by far the greater part of commerce done by junction of rail and vessel, New York is at a disadvantage as compared with her mainland rivals.

At Baltimore the tracks of the Baltimore and Ohio road, running to Locust Point, where all its imports and exports are received, do not even run through the corporate limits of Baltimore. The warehouses and docks of the city of Baltimore, along the entire water front, are reached direct by cars of the railroads terminating there. This is done through the streets of the city by horse power; and in all cases the freight is transferred from the cars to the warehouse or vessel without lightering and without drayage. The haul by horse power through the streets of the city is done by the railroad, but an extra charge is made therefor. Large elevators are provided at Locust Point and Canton for handling grain. The elevator charges for grain are, on the grain from cars $1\frac{1}{2}$ cents per bushel, including storage for ten days; same from vessel, when received, $1\frac{1}{2}$ cents per bushel; each succeeding ten days, or parts of the same, three-eighths of one cent per bushel. Vessels can enter that harbor with the same draught of water that vessels can enter New York. There is a limitless amount of water front, easily available and of comparatively little value. Some difficulty is experienced with ice, but by the use of ice boats the inconvenience is inconsiderable.

The State of Maryland guaranteed the Baltimore and Ohio road, in its charter, immunity from taxation of every kind for all time. It pays no taxes upon its real or personal property, in the State of Maryland, whatever; and the court of last resort, in that state, has affirmed the validity and inviolability of that part of the charter. The city of Baltimore subscribed \$3,500,000 to the stock of the Baltimore and Ohio road, and the State of Maryland subscribed \$1,000,000. The city also took \$5,000,000 of bonds of the company, to enable it to build its second track. (Statement of Wm. Keyser, 2d V. P. B. & O. R. R.)

The harbor of Philadelphia is not equal to Baltimore in some respects. The passage up the Delaware river, a distance of one hundred miles, is a hindrance to sailing vessels, necessitating longer steam towage. It suffers more annoyance from ice, but three huge boats, designed to break and pulverize the ice, owned and managed by the city of Philadelphia, are said to effectually control this element. While vessels drawing only twenty-four feet of water can reach Baltimore, or, as a rule, New York, vessels of twenty-six feet draught can enter the harbor at Philadelphia. New York harbor being a salt water harbor, vessels can load and carry five per cent. heavier cargoes than in the fresh water harbors at Philadelphia and Baltimore. (Testimony, p. 2519. Table.) The export and import business there is done in part at Greenwood Point, but mainly at Girard Point, five miles below the city. There are large grain elevators managed independently of the railroads, and whose charges for elevating, including first ten days' storage and delivery to vessel, are one and one-quarter cent per bushel on freight received from cars; on freight received from vessel, including ten

days' storage, two cents; delivering same to vessel, one-quarter of a cent; every succeeding ten days' storage, three-eighths of a cent.

All Philadelphia roads have access to the water front of the city, and the freight is transferred directly to warehouse and vessel without any intermediate handling or expense. Freight cars are moved through the streets by horse power, as in Baltimore. There is any amount of water front, easily available, at comparatively low prices.

In 1826, the Commonwealth of Pennsylvania, in its corporate capacity, undertook the construction of various canals and railroads, with a view of connecting Philadelphia and Pittsburg by a continuous line of internal improvements. To this end the Columbia and Philadelphia R. R., 81 miles, was built at a cost of \$4,204,969.96, and the Allegheny Portage R. R., 41 miles, at a cost of \$1,828,461.35. These isolated railroads were connected by the Eastern and Juniata divisions of the canal, respectively 46 and 127 miles in length, and costing \$1,736,599.42, and \$3,521,412.21. The Portage R. R. was connected with Pittsburg by the Western Division of the canal, 104 miles long, and costing \$3,069,877.38—making a total length of 122 miles of railroad and 277 miles of canal—in all, 399 miles—constructed at a cost of \$14,361,320.32. These works were principally brought into use in 1830, though the railroads were not completed until 1833-34.

On the 16th day of May, 1857, the main line of public works constructed and owned by the State was sold to the Pennsylvania R. R. Co., for \$7,500,000 in bonds of that company, bearing five per cent. interest annually.

The city of Philadelphia took five millions of stock in the road, an interest which it finally parted with to the Pennsylvania company at par, in December last.

The city of Boston has a fine harbor. The State of Massachusetts recently completed the expenditure, according to the statement of the Massachusetts railroad commissioners, calculating interest to January, 1880, \$19,523,579.94, in building the State railroad between Greenfield and North Adams, and in tunnelling the Hoosac Mountains to improve its commercial connections with the west; and has incurred great expense in building bulkheads, piers and slips, and otherwise improving the harbor of Boston. All railroads terminating at Boston have access to all docks and warehouses along the city's water front, and the same facility in transferring freight without intermediate handling is possessed that Baltimore and Philadelphia enjoy.

Norfolk has one of the finest harbors in the world, and only lacks capital and enterprise to attract to its comparatively unused shores a large share of the south-western commerce of the country.

Richmond, one hundred and four miles up the James river, is accessible to vessels drawing eighteen feet of water, and is advancing its claim to share in the commerce of the west and south-west.

In the harbor of New York there is a lighterage expense of three cents per hundredweight necessarily incurred in transporting freight from the proper terminus of the railroad to various warehouses and points of shipment in New York, Brooklyn, Staten Island, the Jersey coast and other points about the harbor. The lighterage charge is deducted from the thorough freight rate from the west, and the balance pro-rated over the entire haul (rates west of Chicago are arbitrary). The New York Central runs the bulk of its freight to Sixty-fifth street, the lowest down-town place where it could secure land adequate to the handling of cattle and grain. It has a pier at Thirty-third street and a station at St. John's park for local freight. It has access to these stations by rail, but its Barclay street station and stations at piers 4, 5 and 6 East river, are reached only by floats and lighters. It has tracks to the steamer piers above Canal street, but to steamers below Canal street its freight is lightered from Sixty-fifth street, when it ought, to place it on a par with other railroads, and New York on a par with other cities, to run to every dock and warehouse on Manhattan Island. The Erie and the Pennsylvania Railroad, terminating at Jersey City, are compelled to lighter their freight to and from all points on Manhattan Island, Long Island, Staten Island, etc. And all these roads in competition with the canal are compelled to deliver freight at any and all points throughout the harbor where consignee may direct. Canal boats towed into the harbor, as a matter of convenience to them and the easiest way of discharging their cargoes, are towed along ship-side and unloaded directly into the vessel. The railroads transporting freight in competition with the canal were compelled to deliver the freight as the canal did; and hence the peculiarities of the harbor and the custom established by the canal compel, at this day, the performance of this expensive lighterage service, necessary to connect the terminus of the roads with the point of delivery, for shipment abroad and the warehouses of merchants. The very prosperity of the harbor, in one sense, aggravates this matter. The steamships, enabled to obtain a cargo from the promiscuous freight offering itself, and which is brought to their docks, decline to go to the wharves or elevators of the railroad, and insist upon all freight being brought to their dock. The same is generally true of sailing vessels, who receive their freight alongside, lying at anchor in the harbor. The extent of this lighterage service is well illustrated by the fact that the Erie railroad made 8,539 special deliveries of grain in the harbor of New York for the year ending December 31, 1878. (Testimony, pp. 3261-2.) The Erie road has nine distinct stations in the harbor of New York for the delivery and reception

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of freight (Testimony, p. 3227), and received freight during the year 1878 from seventy-three different points in the harbor. (Testimony, p. 3265.) All other roads terminating in New York, of course, in competition, are compelled to do the same thing. This lighterage charge is of no profit to the railroad and of no advantage to any one save the parties engaged in performing the work; but is just so much tax upon the transportation of goods through this port; and must ever continue as a burden upon commerce, threatening a diversion from this city, until the vessel and the car are brought together.

Our canal first tapped the storehouse of the west and gave New York its impetus, and when the railroad became a factor in transportation, whatever rivalry may have existed between it and the canal it mattered little to New York, for they alike drew commerce to her doors. In 1869 the Pennsylvania Railroad entered Chicago, and began, in its own interest and that of Philadelphia, a contest for the trade of the west.

Now, according to Mr. Blanchard (Testimony, p. 3096), it

"Controls the line to Chicago by way of Richmond—making three routes or parts of routes to Chicago; it controls practically and absolutely one route and one-half interest in another to St. Louis; two routes to Louisville; two routes to Cincinnati; one route to Indianapolis; one route to Columbus and all intermediate points; it, by roads under its own control, touches the lakes at Buffalo, Erie, Cleveland, Toledo and Chicago.

Q. Have they got any steamboat line on the lakes? A. Yes; the Anchor Line."

In 1873 it extended its eastern terminus to New York. The Pennsylvania Railroad system has a capital of nearly \$500,000,000 according to Judge Shipman; and in the pooling agreement is given twenty-five per cent. of the New York business. Last year it carried thirteen per cent. of all the freight shipped to New England, and in so doing lightered it from its terminus at Communipaw to Port Morris, a distance of twelve miles, and thence by rail.

The Baltimore & Ohio road entered Chicago in 1874, and began a contest in the interest of Baltimore. Now, according to the same witness (Testimony, p. 3097):

"The Baltimore & Ohio Railroad reaches Lake Erie at Sandusky; it reaches Lake Michigan at Chicago; it reaches the Ohio River at Wheeling and at Parkersburg; it reaches the Ohio river again through the Marietta road at Cincinnati and Portsmouth; it controls the Ohio & Mississippi road leading to St. Louis and Louisville, and the line known as the Springfield & Illinois South-eastern, running from Springfield, Illinois, the capital of the State down to a connection with the Ohio & Mississippi road."

It comes into New York by an arrangement with the Pennsylvania road, and Philadelphia, Wilmington & Baltimore roads, and is given 9 per cent. of the New York business in the pool. It is only since 1869 that New York has been seriously threatened with a diversion of trade. She has little to fear from Boston, nor, indeed, from the north, unless the com-

pletion of the Welland canal enlargement should be supplemented by a corresponding enlargement of the St. Lawrence canals, which would create a rival of most formidable proportions.

In order to illustrate clearly the relations of the city of New York to the west and south-west, we give the following table of distances :

Distances from New York to Cincinnati, via Norfolk :

New York to Norfolk, via Old Dominion S.S. Co	320	miles
Norfolk to Petersburg, via Atlantic, Mississippi, & Ohio R. R.	81	do
Petersburg to Richmond, via Richmond & Petersburg R.R. ...	23	do
Richmond to Cincinnati, via Chesapeake & Ohio R. R. and Ohio river boats	581	do
Total	<u>1,005</u>	do

Distance from New York to Cincinnati, via Richmond :

New York to Richmond, via Old Dominion S.S. Co.	420	do
Richmond to Huntington, via Chesapeake & Ohio R. R.	421	do
Huntington to Cincinnati, via Ohio river boats	160	do
Total	<u>1,001</u>	do

Distance from New York, Philadelphia, Baltimore, Boston, Portland, Montreal, and Quebec, to Liverpool :

From New York	3,023	miles
Philadelphia	3,242	do
Baltimore	3,450	do
Boston	2,900	do
Portland	2,850	do
Montreal	2,822	do
Quebec	2,650	do
Total	<u>20,837</u>	do

New York to Chicago :

New York Central & Hudson River R. R.	438	do
Lake Shore and Michigan Southern Ry.	538	do
Total	<u>976</u>	do

New York to Chicago :

New York Central & Hudson River R. R.	446	do
Canada Southern Ry.	224	do
Michigan Central R. R.	284	do
Total	<u>954</u>	do

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954 do

New York to Chicago :	
New York Central and Hudson River R.R.	448 miles
Great Western Ry.	229 do
Michigan Central R. R.	284 do
Total	<u>961</u> do

New York to Chicago :	
New York, Lake Erie & Western R. R.	413 do
Atlantic & Great Western Ry.	269 do
Pittsburg, Fort Wayne, & Chicago	293 do
Total	<u>975</u> do

New York to Chicago :	
New York, Lake Erie & Western	422 do
Lake Shore & Michigan Southern	538 do
Total	<u>960</u> do

New York to Chicago :	
New York, Lake Erie & Western	430 do
Great Western Ry.	225 do
Michigan Central R.R.	285 do
Total	<u>940</u> do

New York to Chicago :	
Pennsylvania R. R.	444 do
Pittsburg, Fort Wayne & Chicago	468 do
Total	<u>912</u> do

New York to Chicago :	
Pennsylvania R. R.	90 do
Philadelphia, Wilmington & Baltimore.	98 do
Baltimore & Ohio R. R.	847 do
Total	<u>1,035</u> do

DISTANCES.

The short route distance from Chicago to New York is, via	
Pennsylvania R. R.	912 do
Same, Chicago to Philadelphia is, via Pennsylvania R. R. ...	
	822 do

Same, Chicago to Baltimore is, via Pittsburg, Fort Wayne & Chicago R. R., Pennsylvania R. R., and Northern Central R. R. 802 miles.

Note.—The Northern Central R. R. is controlled by the Pennsylvania R. R.)

Chicago to Baltimore, via Baltimore & Ohio R. R., is..... 839 do

The short route distance from Chicago to Montreal is, via Michigan Central and Grand Trunk Ry. 848 do

(Chicago to Portland, Maine, by same route) 1,145 do

Same, Chicago to Boston, via Michigan Central, Great Western, New York Central and Hoosac Tunnel 1,010 do

(Chicago to Boston, via New York Central and Boston & Albany R. R.) 1,017 do

Short distances from St. Louis to New York, via New York Central & Hudson River R. R., is 1,160 do

Via Buffalo, Cleveland, Indianapolis and Indianapolis & St. Louis R. R. it is 1,167 do

And via the same route to Indianapolis, and thence via the Vandalia line (not used by N. Y. Central) 1,146 do

Short distance from St. Louis to New York, via N. Y., Lake Erie & Western Ry., is 1,130 do

And via International Bridge, Canada Southern and Toledo, Wabash & Western, it is 1,144 do

And via Buffalo, Cleveland, Indianapolis and Indianapolis & St. Louis R. R. it is 1,151 do

Short distance from St. Louis to New York, via Pennsylvania R. R. is 1,069 do

Short distance St. Louis to New York via Baltimore & Ohio R. R. is 1,108 do

Distance from St. Louis to Philadelphia is, via Pennsylvania R. R. 979 do

Distance from St. Louis to Baltimore is, via Baltimore & Ohio R. R. 920 do

Distance from St. Louis to Richmond.....	921 miles.
Distance from St. Louis to Norfolk via Richmond.....	1,025 do
Short distance Cincinnati to New York, via New York Central & Hudson River R. R.....	866 do
Short distance Cincinnati to New York, via New York, Lake Erie & Western is.....	850 do
Short distance Cincinnati to New York, via Pennsylvania R. R. is.....	766 do
Short route distance Cincinnati to Philadelphia.....	676 do
do do do to Baltimore.....	579 do
do do do to Richmond.....	581 do
do do do to Norfolk.....	685 do

In this connection it may be of interest to show all the routes of transportation connecting the port of New York with the west and south-west, and especially as showing how utterly disregarded distance is in the formation of these lines. Instance, sending freight from New York to Chicago via New London and Portland; and yet it is frequently done at a less rate than by the most direct line.

All through route connections for transportation of freight from New York to western and south-western points:

- New York Central & Hudson River R. R. Co.
- New York, Lake Erie & Western Railway.
- Pennsylvania Railroad.
- Baltimore & Ohio Railroad.
- Grand Trunk, via steamer to Portland, Me.
- Central Vermont R. R., via steamer to New London, Conn.
- Chesapeake & Ohio R. R., via steamer to Richmond, Va.
- Virginia & Tennessee Air Line, via steamer to Norfolk, Va.
- Savannah Line Steamers and Georgia Central R. R.
- Charleston Line Steamers and Carolina Central R. R.
- Morgan's Line Steamers to New Orleans and Mississippi river boats.
- Morgan's Line Steamers, via Galveston and Texas Central R. R.
- Mallory's Line Steamers, via Galveston and Texas Central R. R.
- Bound Brook Route, via Philadelphia, Wilmington & Baltimore and Baltimore & Ohio Railroads.
- Union Steamboat Company, rail to Buffalo and lake boats.
- Western Express Co., rail to Buffalo and lake boats.
- Anchor Line, rail to Buffalo and lake boats.

Lake Superior Transportation Co., rail to Buffalo and lake boats.
 Erie Canal to Buffalo and lake boats.
 Canal to Oswego and lake boats.
 Carolina Despatch, via Wilmington, N. C.
 Atlantic Coast Line.*
 Old Dominion Line.*
 Seaboard Air Line.*
 Piedmont Air Line.*

It will be seen from the above statistics that goods can be shipped from Chicago to New York via Philadelphia at twenty-eight miles less distance than by the Erie and its connections, and forty-two miles less than by the Central's short line, and fifty-eight miles less than by the Central and Lake shore.

Goods can be shipped from St. Louis to Baltimore and coasted up to New York at a distance ten miles less than via the Erie road, and forty miles less than via the Central road. Chicago is ninety miles nearer to Philadelphia than to New York, and one hundred and eighteen miles nearer than by any New York road; one hundred and ten miles nearer Baltimore than New York, and one hundred and thirty-eight miles nearer than by any New York road. St. Louis is one hundred and forty-nine miles nearer to Baltimore than to New York, and two hundred and ten miles nearer than by any New York road. Cincinnati is one hundred and eighty-seven miles nearer Baltimore than New York, and two hundred and seventy-one miles nearer than by any New York road. Baltimore is only two miles nearer Cincinnati than Richmond, and seventy-six miles nearer than Norfolk.

Cincinnati has just incurred an indebtedness of \$18,000,000 in opening a south-western railroad to Chattanooga, in order to make itself the distributing and receiving depot of the south-west. Why should not these cities send their produce seeking European markets by the shortest route to the seaboard and thence by vessel abroad? We looked for the answer to this question in the topography of the country. Its solution must be found in a united and co-operative effort on the part of our railways, our State, our city, and our citizens, to retain and increase our commerce. Success cannot attend a divided effort. The gradient of the New York Central and its connections west is superior to any of its rivals. It traverses a larger route, but passes through a natural cut in that range of mountains which the southern roads are compelled to cross. It also has volume of local business in its favor. On the other hand, the southern lines have distance, and cost of fuel, and terminal expense in their favor. Gradient, volume

* These lines are engaged mostly in the Southern Atlantic States trade.

of business, distance and fuel are all important elements in the cost of transportation ; but we could obtain no specific data of the extent to which either entered into the question, for whenever we touched upon this subject we were met with the universal response from all railroad men that "*that* is one of those things that no fellow ever can find out." (See profiles of the Trunk roads in Appendix.)

Mr. Depew tells us in his argument that during the war of rates with the Baltimore & Ohio and Pennsylvania roads, from 1875 to 1877, the New York roads, fighting for themselves and for New York, forced rates down from \$1.00 to 10 cents, and then stopped. The New York roads in this contest spent many millions. It was so disastrous to the Baltimore & Ohio and Pennsylvania roads that they ceased to pay dividends. A strong argument in favor of the superiority of the carrying capacity and facility of our roads is found in the fact that during this war, so disastrous to their southern rivals, the New York Central continued to pay its regular eight per cent. dividend.

Our roads are in need of no subsidies ; but while other States and cities are subsidizing their roads and incurring vast amounts of indebtedness in acquiring a larger share of transportation, New York must not pursue an obstructive policy, which the Testimony tends to fasten upon her. (Testimony, pp. 768-9, also 3285.)

Our roads do need terminal facilities to place them on a par with other roads and to place New York on a par with other cities. Mr. Vanderbilt testifies (Testimony, p. 1670) that the business of his road could not be increased without increasing its terminal facilities in New York. Mr. Blanchard describes the terminal facilities of the Erie (Testimony, p. 2957) :

"Q. Would the present terminal facilities of the Erie Railroad permit a large increase of business? A. They would not ; but perhaps I ought to answer that question more in detail. The Long Dock station at Jersey City, through which we handle the large bulk of our property, is at present inadequate to our business, and we are now putting up at Jersey City, at a very large cost, just for that reason, a large new elevator, built upon a basin that is to have warehouses upon both sides of it ; and for the time being all sorts of shifts have to be provided for handling this business. We have, at a very large additional expense, recently been compelled to take freight up to Oak Cliff, our stock yard, and there put it on to barges and bring it down the river, because our usual terminal facilities are inadequate."

New York has recently submitted, in the interest of rapid transit—wisely submitted—to have her streets occupied by an ungainly structure, the value of certain property seriously disturbed and the convenience of a large portion of her citizens materially interfered with, and it seems equally necessary, in the greater interest of commercial supremacy, that she submit to whatever inconvenience may attend in bringing her railroads in contact with her warehouses and the wharves of her steamships. "If the mountain won't come to Mahomet, Mahomet must go to the mountain." If the tracks

cannot be brought down to the wharves of the steamships, some means must be devised of inducing the steamships to go to the elevators and wharves of the railroad. This would still leave Brooklyn insulated, and afford facilities to the Central line which would give it just so much advantage over the Erie and other rivals. At this point Mr. Vanderbilt's Testimony (p. 1312) that his rivals would not permit him to use the Belt line of railroad for freight cars at night, a privilege accorded him by the city, is pertinent, as showing the complicated nature of the question and the extent to which railroads combine to dictate to each other. With proper facilities tendered to the roads, their own interest would prompt their use. Should they neglect their use it would justify the imposition of such terms and restrictions as the protection of commerce might require.

To-day the Pennsylvania road carries grain from Chicago to Philadelphia for thirty-eight cents per hundredweight, to New York for forty cents, and out of that pays three cents lighterage charge, realizing thirty-seven cents to New York. They virtually pay one cent per hundredweight for the privilege of hauling freight the additional ninety miles. Could this charge be done away with, even under the agreement as to rates, New York would be on a par with Baltimore on east-bound freight. Less complaint was made of the differences on west-bound rates; the subject received less attention in the testimony and arguments of counsel, and hence less in this report.

The export controls the import. Goods will be imported at a point where an export cargo can best be obtained, as a rule.

To bring all the roads in connection with all the water front of the port, an advantage which other cities and their roads enjoy, would involve tunnelling or bridging, difficult but not impossible of accomplishment. Its possibility or practicability we know nothing of, and have no data upon which to form an opinion.

It would seem that the authorities of the port, the authorities of the city, the merchants and railroads, by a co-operative effort and possible exercise of authority, might bring the tracks of the roads to the wharves of the vessels, or constrain vessels seeking export trade to go to the docks, wharves and elevators of the railroad. It is certainly the interest of all parties above mentioned, and therefore must be their desire, to do away with this lighterage charge, which is a standing menace to all property seeking export through New York. Community of interest ought to insure unity of action and success.

This matter cannot be regulated by a direct law. The only law that would be efficacious would be an appropriation to effect this desired result. Such aid the legislature, under the amended Constitution, cannot grant; neither can the city of New York. Whatever expense is necessary to incur,

the railroads must pay. The legislature can aid only indirectly, by enlarging the power, if insufficient, of local authorities, and revising and amending laws relating to the port. This lighterage charge is in no sense a discrimination, and nothing for which railway managers are responsible. They of all parties are the most anxious to avoid it. It therefore does not fall strictly within the scope of the resolution creating your committee, but is directly in the line of investigation. It is the outgrowth of the peculiarity of our harbor and the peculiarity of canal delivery.

New York has natural advantages of a superior character. She has her water route to the west, which will always insure her a large share of the western produce. She has the vested interest of her railroads, that will always, in contending for their own interest, contend for her advantage. While quietly resting in the conscious security which these advantages give her, her rivals have been multiplying exertions to wrest her commerce from her, and have measurably succeeded. That the commerce of Philadelphia, Baltimore, Richmond, Norfolk, New Orleans and other southern ports, shall develop and increase is just as inevitable as the development and increase of the resources of the country. New York may still preserve her proud pre-eminence, but to do so she must make the same exertion that other localities make. The object of this discussion is to direct attention to New York's relations to the commerce of the country, and the efforts made and making by rival sections to grasp the fruits she so long enjoyed.

The proposition to abolish the tolls upon the canals and make their support a charge upon the whole State has received its strongest indorsement from New York and Brooklyn, commanding their solid support. Should this policy prevail, the territory immediately bordering upon New York harbor would, according to the apportionment of the tax for 1879, be compelled to pay sixty per cent. of the tax for this purpose. In the report of the dock commissioners for 1878, a revenue to the city of nearly \$800,000 is reported, a net revenue of \$223,745.37; and it is confidently predicted that the immediate future will show a net revenue of \$1,000,000 per annum. All the revenue the city receives from her water front is in the nature of a tax on commerce, and the question may be fairly raised whether New York's policy in this respect does not antagonize her canal policy. But for want of time we should have given special attention to the wharf and port charges of New York and Brooklyn, and all laws and regulations appertaining thereto. It should certainly engage the attention of merchants and the legislature. It is said by competent and responsible parties that while the dock revenues to the city are about \$800,000, the actual revenue to the city's lessees is several times that sum. The port charges are higher than other ports, when they ought to be lower. The income of the health officer,

for instance, is estimated at from \$60,000 to \$100,000 per annum—an excessive amount—and many other charges are in proportion. This whole matter needs thorough examination. While the legislature should stand ready, and probably does, to lend any aid in its power to enhance the commerce of New York, by amending present laws or enacting new ones, suggestions can best come from those practically conversant with the needs of the port or from a committee of the legislature given time and power to thoroughly familiarize themselves with the present condition of affairs and proper remedies.

This question of terminal facilities would seem to be in view of constitutional restrictions eminently a local one, in the solution of which every industry in the port of New York is equally interested, and with no conflict of interest. Under these circumstances, it does seem that a solution ought to be attained.

RATES.

On April 5, 1877, the New York Central & Hudson River, the Erie, the Pennsylvania Railroad and the Baltimore & Ohio entered into an agreement (Exhibit, p. 60), the preamble of which recites:

"To avoid all future misunderstandings in respect to the geographical advantages or disadvantages of the cities of Baltimore, Philadelphia and New York, as affected by rail and ocean transportation; and with a view of effecting an equalization of the aggregate cost of rail and ocean transportation between all competitive points in the west, north-west and south-west, and all domestic or foreign ports reached through the above cities, it is agreed," etc.

Then follows an agreement that on east bound freight three cents less per hundred pounds shall be charged to Baltimore, and two cents less per hundred pounds to Philadelphia, than the rates established from time to time to New York; also,

"It being further agreed that the cost to the shipper of delivering grain at each port from the terminus of each of the roads to the vessel in which it is exported, as well as the number of days' free storage allowed thereon, shall be the same."

While this equalizes the terminal charges, it should be remembered that what is paid for elevating goes, not to the railroad elevators, but to the floaters and Atlantic Dock elevators.

On west bound traffic:

"The difference in rates from Baltimore and Philadelphia below New York shall, on third class, fourth class and special, be the same as the differences fixed on east bound business, and on first and second classes eight cents per hundred less from Baltimore, and six cents less per hundred from Philadelphia than the agreed rates from New York."

By a similar agreement of June 8, 1877, the west-bound business of the port of New York was divided between the above roads as follows: The New York Central & Hudson River, 33 per cent.; the Erie, 33 per cent.; Pennsylvania, 25 per cent.; Baltimore & Ohio, 9 per cent.; and all California business divided equally. The contract creates a joint commissioner, and provides, among other duties, that

"He shall furnish each company, at the end of each week, a statement showing the excess or deficit of each class carried above or below the agreed percentages of the parties hereto, which shall be accompanied by instructions to the companies in excess, to deliver, upon the demand of the company in deficit, the amount of tonnage of each class required to equalize as agreed."

Under these agreements Philadelphia has the same reason to complain of the rate given to Baltimore that New York has, though not to the same extent.

This agreement of April 5, 1877, instead of equalizing the through rates from western points to foreign ports, has had the opposite effect.

"LONDON, 14th August, 1878.

"We, the undersigned ship brokers, certify that the great majority of charters made in London for sailing vessels carrying grain from the United States to Europe, give charterers the option to send the vessel either to New York, Philadelphia or Baltimore on the same terms.

"GALBRAITH PEMBROKE.
"H. CLARKSON & CO."

The evidence as a whole shows that the ocean rates from Philadelphia for the year average slightly higher than the rates from New York, and that the rates from Baltimore average slightly higher than the rates from Philadelphia, the difference by no means equalling the difference in rail rates conceded to those cities. It should be added that Boston is given the same rate as New York, and the ocean rates from New York and Boston average the same.

Keeping in mind the difference in distance, terminal expense, cheapness of fuel in favor of the Baltimore & Ohio and the Pennsylvania roads, on the one hand, and the difference in gradient, and volume of local business in favor of New York roads on the other, it is difficult to determine the relative cost of haul by the different routes; and, as before stated, we could obtain no sufficient or satisfactory data upon which to reach a definite conclusion. We are of opinion, however, that our New York roads can afford to carry freight from the west to New York as cheaply as the other roads to their respective termini, and if they can afford to they ought to. Though distance plays an important part in justifying the concessions to Baltimore and Philadelphia, it has no effect as applied to Boston. The latter city gets the same rate as New York, notwithstanding the additional haul of fifty miles; and we are told that, with a train of cars loaded and in motion, the expense of the additional haul of fifty miles is really inappreciable. But at this point the Grand Trunk of Canada is a controlling factor—a bankrupt road and, in railroad parlance, it "runs wild," runs for operating expenses. It sustains the same relations to a solvent and dividend-paying road that the goods of a bankrupt merchant bear to the goods of a solvent merchant. It is the most dangerous kind of competition. While bankruptcy may extinguish an individual, it, at most, simply changes the control of a railroad,

relieves it, temporarily at least, from its obligations to pay dividend or interest, and leaves it free to run wild. The haul via the Grand Trunk to Chicago is 159 miles longer than other routes; and hence they cannot get any business unless, to use Mr. Rutter's expression, they "buy it" by offering a lower rate. The shorter route must have the lower rate because they can afford to carry for less; the longer must cut under this rate because, if it does not offer some inducement, freight will naturally seek the most direct route, and it will get no business.

These agreed rates were the result of a severe railroad war. Whether the managers of the New York lines at the time of making this agreement were reprehensible or no, the fact remains that the city of New York is discriminated against; that is, with the agreed differences in railroad rates maintained, and the substantial equality of ocean rates, as proven to exist, the export trade will of necessity seek Philadelphia and Baltimore. A difference in rate of one cent per hundredweight would be \$2.50 per car, and, on a large shipment, would control the route in making a through bill of lading, as would also one-half or one-quarter cent difference. It was conceded by Judge Shipman, in his argument before the committee, that the present differences in rail rate, with substantial equality in ocean rates, would have the effect to divert traffic from New York to Baltimore and Philadelphia. Whatever baneful consequences attend such diversion, the railroads must themselves, of necessity, suffer more heavily than any other industry, and prompted by their own self-interest, they will be constrained to unite in any effort, or to do battle singly, to preserve the equality in this respect of the port at which their roads terminate. (For history of these differences, see Testimony, page 3172, etc.). A claim for a modification of the differences is now pending on the part of the New York roads.

New York possesses the key to the situation in the Erie canal. While the committee made no attempt to investigate the relation of the railroads to the canal, and sought to lessen their labors by avoiding this question, the canal, like Banquo's ghost, would not "down;" we were compelled to meet it at every point and turn of the investigation. The cost of water transportation from Chicago to New York determines the rate of rail transportation; and the rate of rail transportation from Chicago to New York is the base line upon which railroad rates are determined and fixed throughout the country. The rates, by agreement of the principal railroads of the country, from all points in the west to the seaboard, are made a certain percentage of the Chicago rate. (Testimony, pp. 3001-2-3-4.) Thus Cincinnati is 87 per cent. of the Chicago rate; St. Louis, 116 per cent.; Kansas City, 146 per cent.; Louisville, 96 per cent.; Cleveland, $73\frac{1}{2}$ per cent., etc. There remains for the railroads to do this additional act of justice, and see that the rates from points in the State of New York to the city of New York are made a proper percentage of the Chicago rate.

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Mr. Blanchard (Testimony, p. 2840) says:

"The State holds within its grasp the great controller of the freight rate within its borders, to wit, the canal; there is not a town that is not affected more or less within this whole State, from the extreme north-east to the extreme south-west corner of it, by the canal policy and rates of this State."

Mr. Fink, a recognized authority on railroad matters, testifies (Testimony, p. 530) that whenever a reduction is made in the rail rate from Chicago to New York, occasioned by lake and canal competition, that that reduction extends to Louisville, Nashville and Savannah.

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"It extends to every point of the country I might say; to-day, when they charge ten cents or twelve cents a hundred from Chicago to New York, the steamship lines from here to Savannah take up that freight and carry it for fifteen cents from here to Savannah, making a rate from Chicago to Savannah of twenty-five cents; the regular rate from Chicago to Savannah by railroads may be at the time fifty, sixty, seventy or eighty cents; they have to come down and conform to the water rate; the rate in Savannah determines again the rate in Atlanta; Atlanta is perhaps the most interior of all towns in the country, and generally gets the highest rates on that account; they carry their freight for nothing, from Chicago to New York almost, and then from here by water to Savannah, and then they carry the short distance from Savannah up to Atlanta themselves—that is, two hundred miles—and the other rail lines that work from Chicago to Nashville, Louisville, Chattanooga and Atlanta, have simply to conform to the rates that the steamship lines and the rail lines from Chicago and New York make; thus, the lake navigation and canal navigation regulate the rates of the whole country, you may say, from Canada down to the Gulf."

Mr. Vanderbilt in his testimony attached equal importance to the canal, and regarded it as an important factor in the commerce of the State and country.

The maintenance of our trunk canals should engage the earnest solicitude of the State. Nothing could be more prejudicial to the interests of the city of New York, or the State as a whole, than to permit their efficiency to be impaired or their usefulness compromised.

STANDARD OIL COMPANY.

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The terminal facilities for handling oil used by the New York Central road in New York are owned in fee by the Standard Oil Company. This company also owns all the oil cars run on the Central road. The terminal facilities of the Erie for handling oil in New York are leased to the Standard Oil Company. (Exhibits, p. 573.) This company owns all the oil cars run over the Erie, except about two hundred. Thus, these roads have placed in the absolute control of this company the handling of all oil carried by them to New York, and they can charge a rival shipper any price for terminal handling they choose. They are bound to charge no more than is charged for a similar service by other roads, but remembering that they own and control the facilities at Baltimore and Philadelphia as well as New York, the force of this limitation is nothing. They can use the power here given them, and have used it, to crush out opposition; and this is an illustration of the worst results to the public that can follow the leasing by a

railroad of any part of its functions, or placing what is a necessary link in the chain of transportation in the hands of other parties.

The history of this corporation is a unique illustration of the possible outgrowth of the present system of railroad management, in giving preferential rates, and also showing the colossal proportions to which monopoly can grow under the laws of this country. January 8th, 1872, the Central, Erie, Lake Shore and Pennsylvania roads made an agreement with the South Improvement Company, a corporation of Pennsylvania (Exhibits, p. 418), in which these roads agreed to pay said company rebates on shipments to different points, ranging from forty cents to \$3.07 per barrel. (Said Exhibit, article 2, subdivisions 3 and 4.)

They then agreed :

"5. To charge to all other parties (excepting such as are referred to in article 3d) for the transportation of petroleum and its products, rates which shall not be less than the gross rates above specified, and should at any time any less rate be charged, directly or indirectly, either by way of rebate, commission, allowances, or upon any pretext whatsoever, the same reduction per barrel shall be made to the party hereto of the first part, from the net rates provided for them, on all transportation for them during the period for which such reduction shall be made to others.

* * * * *

ARTICLE FOURTH.—And it is hereby further covenanted and agreed by and between the parties hereto, that the party hereto of the second part shall at all times co-operate, as far as it legally may, with the party hereto of the first part to maintain business of the party hereto of the first part *against loss or injury by competition*, to the end that the party hereto of the first part may keep up a remunerative, and so a full and regular business, and to that end shall lower or raise the gross rates of transportation over its railroads and connections, as far as it legally may, for such times and to such extent as may be necessary to overcome such competition. The rebates and drawbacks to the party of the first part to be varied *pari passu* with the gross rates."

The nature of this agreement became public, and the Pennsylvania legislature repealed the charter of the South Improvement Company, in April following.

This contract is important as showing the light in which railroad managers view their relations to the public, and as throwing light upon their subsequent relations with the Standard Oil Company. Resting under the common law obligation to treat all parties alike, they deliberately undertake to protect a certain company "against injury by competition."

The Standard Oil Company is an Ohio corporation, located at Cleveland, with a nominal capital of three and one-half millions. It was chartered in 1869, with a capital of \$100,000. Mr. Scheide, a witness produced by the railroads, testifies (Testimony, p. 2766) :

"Q. Was the Standard Oil Company and the South Improvement Company the same at that time? A. The Standard Oil Company was part of the South Improvement Company.

Q. The South Improvement Company at that time was the larger, comprehending the Standard Oil Company? A. Yes, sir; it comprehended the Standard Oil Company and a dozen other different firms in Pittsburgh and Cleveland."

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After the repeal of the South Improvement Company charter, the attempt made to monopolize the oil trade through this company was transferred to the Standard Oil Company, the controlling spirits of both organizations being the same.

From that time this organization grew rapidly in importance, until now it comprehends, according to the testimony of Mr. Patterson (Testimony, p. 1698):

"The Standard Oil Company of Cleveland, and the Standard Company of Pittsburgh, the Acme Oil Company of New York, but located at Titusville, the Imperial Oil Company at Oil City, the Atlantic Refining Company of Philadelphia, the Camden Company—well, I call it the Camden Company of Maryland—Charles Pratt & Company of New York, the Devoe Manufacturing Company of New York, J. A. Bostwick & Co.:"

and other refiners of oil.

Mr. Rogers testifies (Testimony, p. 2615), the people that are working in harmony with "us," meaning the Standard Oil, comprise about ninety or ninety-five per cent. of the refiners of the country. Your committee were unable to ascertain the exact relations of these different organizations, owing to the refusal of several members of the Standard Oil Company subpoenaed as witnesses to obey the subpoena, and the refusal of those who did attend to answer our questions; but succeeded in establishing the fact that ninety or ninety-five per cent. of all the refiners of the country act in "harmony" with the Standard Oil Company, and that they ship ninety-five per cent. of all the oil of the country; and, of course, the three and a half millions capital of the Standard is but an insignificant portion of the aggregate capital of this mysterious organization, whose business and transactions are of such a character that its members declined giving a history or description of it, lest their testimony be used to convict them of a crime. (See Testimony of Messrs. Bostwick, Archbold, Rogers, etc.)

October 1st, 1874, the several trunk lines agreed to ignore the element of distance altogether in the transportation of oil. (Testimony, p. 3417.)

"Tenth.—Commencing October 1, 1874, it is agreed that the following shall be through freight rates from any refinery in Cleveland, Pittsburgh, or in the oil regions, upon refined oil:

To New York.....	\$1 90 per bbl.
" Philadelphia and Baltimore	1 75 "
" Boston	2 00 "
Upon crude from initial points of rail shipments:	
To New York.....	\$1 65 per bbl.
" Philadelphia and Baltimore	1 50 "
" Boston	1 75 "

"The roads transporting the refined oil shall refund to the refiners, as a drawback, the charges paid by them upon the crude oil reaching their refineries by rail; and the roads transporting through crude oil to the eastern seaboard shall refund to the shippers twenty two cents per barrel; both of said drawbacks to be paid only on oil reaching the initial points of rail shipment through pipes, the owners of which maintain agreed rates of pipeage."

By this agreement the roads carry crude oil from the oil regions to Cleveland and Pittsburgh, and then carry the refined oil to the seaboard as cheaply as they would from the mouth of the well. Mr. Vanderbilt explains this (Testimony, p. 1596):

"That is to equalize it from the different districts; that is to equalize it as to the different refineries, as to the Pittsburgh refiners and the Cleveland refiners; make the distance all alike to the seaboard.

* * * * *

Q. Do you do that in any other business except oil; do you carry a raw product to a place 150 miles distant and back again to another point like that, without charge, so as to put them upon an equality? A. I don't know."

Could any more flagrant violation of every principle of railroad economy and natural justice be imagined than this--any more marked discrimination against the refiners of the State of New York--a haul of three hundred miles for nothing in order that the Cleveland and Pittsburgh refiner may be placed upon a par with the refiners in New York! Should the legislature enact that the railroads of this State deliver all Cincinnati freight carried by them at New York as cheaply as the Baltimore and Ohio deliver Cincinnati freight at Baltimore, the distance to Baltimore being 289 miles less than the distance to New York by any New York road, the railroads would doubtless complain; and yet here is a voluntary haul of three hundred miles made for nothing, the expense of which is shared by the roads of this State, not in the interest of New York but in hostility to her interest.

In 1875, August 1st, the Erie and Central made an agreement with the Standard Oil Company (Exhibits, p. 175), whereby they agreed to give them a rate as low as the lowest net rate to other parties; and then (Exhibits, page 182) agreed to pay the Standard Oil Company and all its affiliated companies a ten per cent. rebate on all shipments of oil. Affiliated companies cover those firms and individuals who work in "harmony" with the Standard, and those to whom they farm out their rate. Later, in 1877, we find the Central and Erie saying to the Pennsylvania road that it must close out its interest in the Empire Transportation Company. This was the Pennsylvania road's Standard. It shipped oil and was largely engaged in refining oil. The Central and Erie insisted that refining oil was foreign to the proper functions of a railroad; was prejudicial to their interests as rival carriers; and demanded that the Pennsylvania railroad close out its interest in that company, a demand in which they joined hands with the Standard Oil Company, and proceeded to enforce by a war of rates, which terminated successfully in October of that year. The oil traffic, instead of being more profitable to the Central and Erie, has certainly been less remunerative since that war than before. We are unable to find the slightest respect wherein it resulted to the advantage of these roads. The Standard got the "plum;" and as a result it owns exclusively the terminal facilities for handling oil in

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Philadelphia and Baltimore. It owns and controls the terminal facilities for handling oil of the four trunk roads. It owns and controls the pipe lines of the producing regions that connect with the railroads. It controls both ends of these roads. It ships ninety-five per cent. of all oil. (Testimony of Bostwick, p. 2696; Rogers, p. 2615; Welch, p. 3678.) It dictates terms and rates to the railroads. (Testimony of Mr. Rutter, p. 2549; which is confirmed by Mr. Vanderbilt and Mr. Bostwick.) It has bought out and frozen out refiners all over the country. By means of the superior facilities for transportation which it thus possessed, it could overbid in the producing regions and undersell in the markets of the world. Thus it has gone on buying out and freezing out all opposition, until it has absorbed and monopolized this great traffic, this great production which ranks second on the list of exports of our country. The parties whom they have driven to the wall have had ample capital and equal ability in the prosecution of their business, in all things save their ability to acquire facilities for transportation. (Testimony of Mr. Scheide.) The testimony of this witness (Mr. Scheide), as a whole, is especially interesting, he having been produced by the railroads to justify their relations to the Standard Oil Company. (See also Testimony of Mr. Hewitt, p. 2525; Mr. Morehouse, p. 2623; Mr. Bernheimer, p. 3548.) It was claimed by Mr. Bostwick that the success of the Standard Company was due to their superior business ability; and this claim has been generally made. That these gentlemen possess eminent business talent is obvious; but that they possess a monopoly of the business ability of the country, commensurate with their monopoly of the oil trade, is eminently absurd.

In June, 1879, the Tide Water Pipe Line effected a connection with the seaboard and commenced shipping oil. Opposition, of course, was not to be brooked, and again the Standard called upon the railroads to protect them "against injury by competition," and again the railroads responded. On June 5th, at a conference between the four trunk lines and the Standard people, held at Niagara, the rate on crude oil was made to the Standard over the Erie and Central twenty cents per barrel. The rates to Philadelphia and Baltimore were made the same. (See Statement of Messrs. Rutter and Blanchard, Exhibits pp. 621-2). This reduction was made on the 5th of June, to take effect as of the 1st of June. A corresponding reduction of the rate to the general public was made from one dollar and fifteen to thirty cents per barrel. This was not made public until June 21st. The Testimony of Mr. Welch is pertinent here, as showing why rates should not be secret (Testimony, p. 3688):

"Q. Do I understand you that the railroads reduced their open rate to 30 cents?
A. Yes, sir; first from \$1.15 to 80c., and then from 80c. to 30c.; and while these were nominal rates, of course we did not know what were the real rates at the same time

paid to the railroads ; but it is to be presumed that the Standard, after the drop to this nominal rate, paid very much less ; now, on these heavy forward sales of refined by the Standard, in the opinion of the trade aggregating say two millions or two and a half millions of barrels—of course that oil was delivered upon those contracts, and the purchaser upon those contracts got no benefit of that drop in price, but it must undoubtedly have been a profit to the Standard, and it was believed in the trade generally that the Standard had sold previous to this drop in the rates about the capacity of their manufacture for two or three months ahead ; in my October monthly report I went into that subject, and I computed that the Standard must have made about a million and a half dollars on account of the lower rates which were established by the railroad on June 21, as compared to what they had been previously."

But competition continued, and a further reduction was made on August 1st, to 15 cents per barrel. Out of these rates the mileage allowed to the Standard for use of cars leaves about ten cents per barrel, weighing 390 pounds, for a haul of over 400 miles, besides hauling the empty cars back. Contrast this with the charge of 45 cents for hauling a can of milk holding ten gallons and weighing 90 pounds an average distance of 60 miles. Milk cars, like oil cars, are returned empty ; the traffic is alike regular, and uniform, and forms a legitimate standard of comparison. (For Milk traffic see Testimony, pp. 462, 2931 to 2948.)

Why did the railroads make this reduction on oil ? It was not done in the interest of the public nor in obedience to any principle of public policy or sound railroad economy.

"The Tide Water took from the 1st of June to the 1st of November, 257,786 barrels ; they moved that out of the region." (Testimony, p. 3670.)

An amount so insignificant in comparison with the whole shipment that a fear of losing their traffic could not have induced such a sweeping reduction. It brought no greater proportion of oil to the city of New York. It was made on a product which sent abroad from January 1, 1879, to October 11, 1879, 295,000,000 of gallons, or about 6,500,000 barrels.

From January to October, 1879, the total shipments from the oil regions to all points were 12,900,240 barrels. All shipments to the seaboard would easily have borne one dollar more per barrel than they did ; and, tested by the charge which roads impose upon every other commodity, it should have borne that much more ; and yet all the trunk roads have grown into such relations with this oil combination that they were forced to forego all these millions they might have earned, and look to the other produce of the country for their revenues. They bury their own interest in the interest of the Standard Oil Company, and join in this war of rates to protect it "against injury by competition."

PROXIES.

One of the greatest inducements to mismanagement on the part of railroad officials is the temptation men are under to perpetuate themselves in

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power. This is done by making contracts and leases, or by otherwise employing the owners of large blocks of stock at rates prejudicial to the interests of the roads, by buying proxies of the real owners of stock, and, in very many instances, of the pledgees simply, and those who have no interest in the shares voted, and consequently no interest in securing proper officers for the company, but in whose names they happen to stand. Mr. Jewett (Testimony, p. 1447) says :

“ With regard to proxies, I think one great error in the State of New York is, that stock held as collateral is transferred upon the books into the name of the party holding it as security who has no interest in it other than as security for the debt or the advance made upon it. He has the right to vote upon it ; having no interest, as I have said, beyond that of the value of the stock as security for his debt. It is the same in Europe, as I understand it, that it is held in that way ; the party in whose name the stock stands upon the register gives his proxy to A or B, for which a payment of \$2 a share, or \$1 a share, or \$5 a share, according to the emergency of the case, is paid.

Q. To these parties who have no interest other than as security in this stock ?
A. Yes, sir ; now I think that is all wrong ; I don't think it would be right to preclude a party owning stock, who has an interest in it personally, from being represented by proxies, because that would prevent a stockholder living at a distance, or living abroad, from being represented at the election of the directors of his company at home or in America ; but proxies issued by those who have no such interest ought in some way to be regulated and controlled ; and the habit of selling proxies is extremely objectionable.”

Mr. Wolff, banker, of the firm of Kuhn, Loeb & Co., testifies (Testimony, p. 2521) that his firm, in the election for Erie directors in 1877, voted fifty odd thousand shares of stock in which they had no interest whatever ; that in buying and selling stock it frequently happens, in the regular course of business, that the stock stands in the name of a broker, without his having any interest whatever in it, and frequently is transferred to a pledge for prudential reasons ; and that it is the general practice in Wall street for parties in whose name stock thus stands to vote the same or issue proxies to others, and frequently for a consideration.

While it is very important that this practice be corrected, it is equally important that stock be not disfranchised. It would be undemocratic and unjust to either disfranchise stock or impair its most valuable feature—negotiability. It is believed the accompanying bill will correct the evils without in the least prejudicing the rights of stockholders.

ANNUAL REPORT TO THE STATE ENGINEER AND SURVEYOR.

If the intention of the framers of the present law, requiring railroads to report annually to the State Engineer, was to give the public or the State a history of the year's transactions of the different roads, they most signally failed. The idea of making public the transactions of a railroad in order that publicity may deter mismanagement, is an excellent one ; but the present law utterly fails to compass that object. It has been denounced as wholly inadequate by our State Engineers, and especially by Mr. Seymour

in his first report under the law of 1850. All of the railroad people, who are experts on this subject, who testified before the committee, insist that a full compliance with the present law would not disclose the true financial condition of a road. They insisted that they had fully complied with the law, and as frankly conceded that their reports, thus made, did not disclose the actual condition of the company. Mr. Little, auditor of the Erie road, at p. 1810, says :

"Ought not the report of the railroad companies to the State Engineer to contain a balance sheet? A. Undoubtedly it ought; there is no other way to get at the condition of any company or corporation unless you have a complete balance sheet; you cannot get it in any other way than that; then every man can judge for himself."

Mr. Robertson, who was called and examined as an expert in railway accounts, testified, in relation to this subject (Testimony, p. 982) :

"The vital defect of the law, sir, in my opinion, is in not requiring what is called a balance sheet to be published—to be furnished with the annual report."

There is entire accord as to the defects of the present law and method of correction. It is believed that the accompanying bill, based upon the defects as above stated, and calling for additional detail, will fully cover all defects in the annual report.

DISCRIMINATIONS.

The charge that the railroads of this State discriminate against the citizens of the State, and in favor of western and foreign producers, is fully proven by the evidence taken. The charge that they discriminate against certain localities in the State, as compared with others, is fully proven. The charge that they discriminate in favor of certain individuals, as compared with others in the same locality, is fully proven.

Every man who pays the tariff rate is discriminated against, when any man is given a special rate on a similar shipment.

The tariffs of the several roads all recognize distance as a controlling element, and in no case do they make the longer haul cost less than the shorter. They conform generally to the popular conception of what a railroad tariff ought to be. Special rates conform to no system and vary without rule, and of these exclusively we now speak. A special variation of the schedule rate, made alike to the general public and without discrimination, is free from objection.

The committee find, made and in force within the period of one year, a number of special contracts on the Central & Hudson River road, estimated by the railroad people at six thousand. The number on the Erie was very much less, though the practice of giving them was the same. Upon these roads, and all other roads, special rates were given upon time contracts, and many upon single shipments, and in all instances they varied the open rate to the

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advantage of the party obtaining the special rate. These rates are made secret; secrecy being expressly or impliedly part of the agreement. Your committee made an abstract of the local special rates on the Central (Exhibits, p. 120); also of the local special rates on the Erie (Exhibits, p. 222); also an abstract of the through rates to other States on the Central (Exhibits, p. 297). This last illustrates the through business of the Erie quite as well as of the Central. These abstracts do not contain exceptional cases, but are fairly illustrative of the system or want of system in making rates. By examining these abstracts it will be seen that certain localities are especially favored; that individuals in the same locality upon car lot shipments even are given preferential rates. The rates to local points in the State, compared with the rates to points out of the State, show the extent to which distance is disregarded, and justify the complaint as to the relation of through and local rates. Note on page 307 of the Exhibits a rate from Chicago to Liverpool of thirty cents per hundredweight as compared with local rates, and also on pages 298, 299, etc., how rate between same points made same day on same class of goods varies.

The committee, however strenuously endeavoring so to do, have failed to elicit any principle, rule, criterion, or limitation, in accordance with which special rates are given. We were told that special rates were given when the article could not bear the tariff rate. Volume does not control, nor regularity of shipment, for special rates are given on single shipments and on parcels as well as car or train loads.

Mr. Goodman, assistant general freight agent of the New York Central, testifies (Testimony, p. 142) that special rates are given to all points; are almost invariably given when asked (Testimony, p. 159). He also estimates that 90 per cent. of the business from New York to Syracuse, and 50 per cent. of the business from New York to other points, is done on special rates.

We are told that every application is judged by itself and with reference to its own peculiar circumstances, and it depends upon the judgment of the officer to whom the application is made whether a special reduction is given, and the extent of the reduction. It is very easy to see how this might depend upon the prejudice or the favoritism, and not the judgment of such officer. In the joint letter of Presidents Vanderbilt and Jewett to the committee (Testimony, p. 47), is laid down the rule of charging all an article will bear, and at the same time stimulate its production. As to the manner in which this rule is carried out see Mr. Goodman (Testimony, pp. 122-156), Mr. Vilas, general freight agent of the Erie road (p. 374), Mr. Rutter, general traffic manager of the Central road (pp. 453, 454), also Testimony of Mr. Blanchard. What an article will bear is to a certain extent a

legitimate consideration in determining a freight rate. It is a rule recognized in various vocations, notably so by the government in imposing its revenue tariffs. The necessities of life are made free, except where a protective policy intervenes, and luxuries are taxed, simply because they will bear it and the comforts of the people be not infringed thereby.

In July last, during a war of rates, wheat was carried from Chicago to New York for ten cents per hundred. In August it was put up to fifteen cents, a "living rate." A short European harvest created an unusual demand—a bountiful harvest here created an extraordinary supply. The carrying capacity of all roads leading to the seaboard was taxed to the utmost. The rates were gradually raised from fifteen cents, in August, to forty cents in November. It cost the road just as much to haul a hundred pounds of grain in August as in November. The rate was raised simply because the condition of the market warranted it and the product could bear it. It would be difficult to make a criticism upon that raise which public judgment would sustain. But we are distinctly told that public interest plays an insignificant role in the theatre of railroad management. It is at best but a servant waiting upon the interest of the stockholders. The wrong consists in exercising a censorship over the business affairs of the community, secretly, arbitrarily and unequally varying rates, building up this, developing that—not only performing the proper functions of transportation, but taking into consideration the probable or possible profit of a shipment, and adjusting their rates accordingly. If the shipper is likely to make a large profit, they compel him to divide; if the margin is a close one, they determine whether the shipment shall be made or not, whether it shall result in a profit or loss, and the amount of profit or loss. Thus, under this system of management and this method of giving rates, is every merchant, every manufacturer, every shipper, and through them every individual along the 5,550 miles of railroad in this State, with its five hundred millions of capital, measurably in the power of these corporations. Conciliate their good will, court their favor, and favorable rates will follow; incur their hostility, and the margin of their displeasure may be read on your freight bills. This has been well illustrated in the course of this investigation. Not a shipper would testify voluntarily, however freely he might talk in private, but insisted upon being subpoenaed and put in a light of being dragged before the committee and compelled to answer. The letter of the Produce Exchange to this committee, in response to a request for facts and information to aid in the investigation, well illustrates this feeling. (Testimony, pp. 34 and 53.) They assert that:

"There is, doubtless, no class of merchants within the State who are more familiar with the fact that grave abuses exist in railroad management than the merchants of this Exchange * * * in many cases acquainted also with the nature of such

abuses * * * have for many years past suffered, and are still suffering, injustice at the hands of railroad management * * * do not want a special committee on railroad matters whose functions must soon terminate * * * but a commission to stand between the railroad corporations and those whose interests compel them to use them."

Here is plainly expressed, on the part of a powerful body of merchants, an unwillingness to disclose abuses they know to exist, because there is no power permanently to stand between them and the railroads with whom they must deal, and who would doubtless make them pay for their disclosure by increasing their rates or by cancelling special contracts. This power on the one hand and this fear on the other, will always exist so long as the scale of freight charges is permitted to be a system of rewards and punishments.

The political influence of these corporations should be understood. Not less than 30,000 voters are in the direct employ of the railroads of this State—a number sufficient to have turned the scale in any election in recent years. These employees are doubtless divided in political sentiments, yet in times like the past and the present the question of remunerative employment is of paramount importance to the individual employed as compared with the success of either party. The political sentiments of corporations have been aptly and truly described by a prominent railroad man who testified: "In a republican district I was republican, in a democratic district I was a democrat, in a doubtful district I was doubtful; but I was always Erie." The possible exercise of this vast political power, direct and indirect, not to discuss its exercise in the past, seems to your committee an unanswerable argument in favor of instituting governmental supervision of railroads and holding them in their management to a strict accountability.

There is no tendency of the age more marked than the tendency toward centralization and monopoly. The application of machinery to all kinds of manufacture has dried up the various manufacturing establishments heretofore existing throughout the rural districts, and the hand manufacturer, seeing his business drawn to some commercial centre, has been compelled to follow and apply for a post at the machine. Nothing is left to our rural districts but the production of the raw material; and now come our railroads placing our agricultural products at a marked disadvantage compared with the products of the west, annihilating the advantage of proximity to market, and imposing, at times actually and as a rule relatively, a heavier tax on their movement than is levied on the movement from other States.

Mr. Boardman testified that he was one of a committee representing the millers of Rochester, appointed to obtain from the railroad companies

better rates on freight and, if possible, to obtain milling in transit; that they saw Mr. Clarke and Mr. Rutter, of the New York Central, and Mr. Blanchard and Mr. Vilas of the Erie (Testimony, p. 2002). Explaining the result of that interview, he said:

"We made a report, on our return, to the millers, if I may be allowed to state it; I have it with me; it is very brief (producing a paper and reading):

"MEETING, Saturday, May 31, 1879.

"Your committee would respectfully report, that in accordance with instructions received at your last meeting, we have had an interview with representatives of the New York Central & Hudson River and New York, Lake Erie & Western Railroad Companies, in New York, with results very unsatisfactory to ourselves. Our first interview was with Clarke and Rutter, of the New York Central, Thursday, April 10th, 1879, by whom we were informed that nothing would be done by them until after the members of our association had publicly withdrawn our signatures from a certain circular, dated March 15th, 1879, in which our grievance were set forth, and had publicly withdrawn all support from the *pro rata* freight bill, now before the Assembly of this State; in case the above retractions should be made by us, they promised to give the subject of milling in transit consideration; when asked if they would consider it favorably, they declined to commit themselves; the details of 'Milling in Transit' were discussed at considerable length. Our second interview was with Vilas and Blanchard, of the New York, Lake Erie & Western Railway Company, who seemed disposed to do nothing for our relief, and refused to take any action until they had conferred with the New York Central & Hudson River Railroad.

Q. Tell us, in brief, what that circular was? A. It was a statement of the result of discriminations to manufacturers and producers throughout the State, setting forth briefly the loss, as we saw it, to the people of the State, and applying or appealing to the members of the legislature for relief."

A more extreme illustration of discriminations against the State could not be found than in the history of the Standard Oil combination, already given.

In the examination of the Rome, Watertown and Ogdensburg Railroad (R. W. & O. Testimony, pp. 145-6) is the following:

SPECIAL JOINT RATES ON THE FOUR CLASSES OF FREIGHT IN FORCE JAN. 5TH, 1878.
FROM NEW YORK AND BOSTON.

Not Canadian Freight.

To Canton, Potsdam, Potsdam Junction, Ogdensburg.

New York.					Boston.				
CLASS.	1	2	3	4	CLASS.	1	2	3	4
R. W. & O. proportion.....	23	20	16	13	R. W. & O. proportion.....	21	18	14	11
N. Y. C. & H. proportion.....	42	35	29	22	East of Rome.....	44	37	31	24
Through.....	65	55	45	35	Through.....	65	55	45	35

Canadian Freight.

To Ogdensburg.

New York.					Boston.				
CLASS.	1	2	3	4	CLASS.	1	2	3	4
R. W. & O. proportion.....	16	13	11	9	R. W. & O. proportion.....	14	11	10	8
N. Y. C. & H. proportion.....	29	22	19	16	East of Rome.....	31	24	20	17
Through.....	45	35	30	25	Through.....	45	35	30	25

In the examination of the Utica & Black River Railroad (U. & B. R. Testimony, p. 81) will be found the following :

Rates from New York and Boston to Ogdensburg and Morristown for Canadian points :

	First Class.	Second Class.	Third Class.	Fourth Class.
New York Central.....	29	22	19	16
Utica & Black River.....	16	13	11	9
Total through.....	45	35	30	25

Rates from New York and Boston to Ogdensburg and Morristown for local consumption :

	First Class.	Second Class.	Third Class.	Fourth Class.
New York Central.....	42	35	29	22
Utica & Black River.....	23	20	16	13
Total through.....	65	55	45	35

By these extracts from the evidence, it appears that a discrimination is made in favor of Canadian and against New York shippers, of between thirty and forty per cent., and the same is true of freight carried to either New York or Boston from Canadian points. Also, by agreement between the roads terminating at Ogdensburg, a charge is made upon butter and cheese shipped over these roads to points on the St. Lawrence river, destined for shipment abroad via Montreal, so high as to compel their shipment the other way, namely, to New York or Boston. (U. & B. R. Testimony, p. 73.) The reason assigned for thus arbitrarily forcing freight over the longer portion of their roads was a patriotic one—to compel the freight to pay tribute to New York or Boston merchants instead of passing into foreign hands, a degree of patriotism altogether lost sight of when the rate was made thirty or forty per cent. cheaper to Canadian shippers than to shippers of our own State. The Montreal market, owing to the cheap water communication of the St. Lawrence river, is frequently one cent or more higher on butter and cheese than either New York or Boston. This last season, with butter at twelve cents and cheese at five cents, that would be an advantage of about eight per cent. on butter and twenty per cent. on cheese—percentages which, saved to the butter and cheese makers of the northern tier, would be valuable indeed.

The discriminations against the State on the part of the Central and Erie are equally marked, though not as specifically shown, in their tariffs. Cereals, live stock, and all articles manufactured therefrom, farm and forest products generally, are carried to our metropolitan markets from western centres some of the time at a less cost absolutely, and generally at a very much less cost relatively, than similar productions of our own State are compelled to pay. For discriminations against live stock graziers of this State see Testimony of Mr. Willard (Testimony, p. 1854, etc.), Mr. Hunt (p. 1871), Mr. Carpenter (p. 1935). The testimony of these witnesses shows an absolute charge of as high as thirty dollars per car, in some instances, more for carrying to New York cattle raised in this State than cattle brought from the west and grazed in transit. At page 1937 of the Testimony Mr. Carpenter swears he asked the agent at West Junction, on the Erie, what he would charge for a car load of cattle to New York, and he said \$65 :

"Says I : 'You shipped last year for \$35 for certain parties ;' he said they did, and they would still do it if the cattle came from Buffalo or were shipped over the road.

Q. That means western cattle? A. That means western cattle or shipped from Buffalo.

Q. So that there is a discrimination of \$30 a car against the New York cattle from your place? A. Yes, sir."

Mr. Willard (Testimony, p. 1855) testified : "As a general rule our freight is from fifty to sixty dollars higher per car load from Chicago to New

York than it would be through freight." That is, if the cattle are brought from the west in the spring and grazed in this State and sent to the New York market in the fall, the cattle are charged two local rates, amounting to fifty to sixty dollars per car load more than they would be if they were grazed in the west and sent direct to New York.

Mr. Vanderbilt testifies (pp. 1293-4) that the railroads carry western freight to the seaboard at a loss upon an average of from thirty to sixty days in the year.

William W. Mack, of Rochester, edge tool manufacturer, testifies (p. 1203) that he shipped his goods to New York and had them re-shipped to Cincinnati, via Rochester, and saved fourteen cents per hundredweight thereby; shipped goods to New York and then reshipped to St. Louis, via Rochester, and saved eighteen cents per hundredweight. In each case the railroads hauled the goods about 700 miles further than a direct haul from Rochester, and did it fourteen and eighteen cents cheaper, respectively.

Mr. Alexander, of Rochester, testifies (p. 2028) to a habitual practice precisely similar.

Flour was carried from Milwaukee to New York for 36 cents open rate, 20 cents cut rate; the rate from Rochester to New York being at the same time 30 cents. (Testimony, p. 1192.)

Flour was carried from East St. Louis to Troy at 15 cents a barrel; at the same time the rate from Rochester to Troy was also 15 cents. (Testimony, p. 1192.)

Flour was carried from Buffalo to Albany and Troy for eight cents a barrel, when the Rochester miller was charged 15 cents a barrel, and the Buffalo miller 20 cents a barrel, on flour manufactured at those points. (Testimony, p. 1193.)

Flour can be manufactured as cheaply in Rochester as at the west. (Testimony, pp. 1664-5; also testimony of Mr. Hinds, p. 1955-6.)

Port Jervis millers have grain shipped from the west via Port Jervis to Newburgh, and thence hauled back to Port Jervis, a distance of fifty miles, at a less rate than they could stop the cars at Port Jervis in the first instance. (Testimony, pp. 2923 and 2925.)

For instance of discrimination against individuals in the same locality and in the same trade, see Testimony of Mr. Greiner, grocer, of Buffalo, pages 2166, 2167, etc.

The county of Franklin is recognized as a non-competing territory, and as such well illustrates the higher rates which neutral ground is required to pay. For instance, they charge sixty cents a hundred on butter shipped to Boston from all points in St. Lawrence county over the Ogdensburg & Lake

Champlain and Vermont Central roads, seventy cents from the nearer county of Franklin, and the rate increasing as you approach Boston, until it is ninety cents from St. Albans, Vermont. (O. & L. C. Testimony, pp. 41 and 42.) The passenger charge on the Ogdensburg & Lake Champlain road of four cents per mile is higher than the other roads centring in Ogdensburg; and it is a fair deduction from the testimony that the reduction to three cents would not only be in the interest of the public but as well in the interest of the road itself. At page 12, O. & L. C. Testimony, Mr. Richardson, general passenger agent of the road, testifies:

“Q. Is it not your opinion that a reduction of the rate would have a tendency to increase the amount of traffic? A. Yes, sir; I should be in favor of reducing the passenger rate.

Q. To what extent? A. I would like to see our local tariff three cents per mile on this road, the same as it is on the Rome road.

Q. And you think it would be in the interest of good management to make it three cents a mile, do you? A. I do.

Q. And that opinion is based upon your experience in connection with the management of the road? A. Yes, sir.”

Investigation of the Utica & Black River road developed the fact that the charge for passenger fare from Utica to several intermediate points was higher than to Watertown. (U. & B. R. Testimony, p. 2; and for explanation, the testimony following.) This road runs parallel to the Black River canal, and the same conditions as to contracts and varying rates were found to exist here in a degree that existed along the New York Central.

When, in the summer, the New York Central reduced its rates on fourth class goods to nine cents to Utica, Rome and Syracuse, the Utica & Black River, and the Rome, Watertown & Ogdensburg roads, by an agreement with the Ogdensburg & Lake Champlain road, raised their freight charge from Utica, Rome and Syracuse to St. Lawrence river points on their roads, just as much as the Central had reduced its charge, so that if a merchant in Ogdensburg, Canton or Potsdam purchased goods in Utica, Rome, or Syracuse, he obtained his shipment at a certain price; if he purchased goods at any other point and had them shipped over these roads via the above-named points, he was charged ten cents a hundred more. (U. & B. R. Testimony, pp. 76, 77.)

A unique illustration of the effect of special rates is to be found at page 304 of the Testimony. Babbitt & Co., of New York, sold to Crouse & Co., of Syracuse, large shipments of soap delivered, and billed it to them at a certain sum less schedule rate, which amounted to twelve cents per box. According to Crouse's special rate he only paid eight cents per box; but in his settlements with Babbitt deducted twelve cents per box, thereby making four cents per box out of his special rate. This disadvantage Babbitt & Co. undertook to overcome by applying to Mr. Goodman for a special rate cor-

responding with Crouse's, which was refused, though their shipments by the New York Central & Hudson River road in 1878 aggregated 1,346 tons. (Testimony, p. 311.)

The testimony of Mr. Pierce (p. 2512) illustrates discriminations in the grain trade.

“Q. Have you heard of complaints, and do you know the fact, of scarcity of means of transportation by the railways, to the great bulk of dealers, while others had transporting facilities? A. There have been times when that was the case; in the winter, notably, of 1877.

Q. To what extent did that prevail? A. To such an extent that two houses controlled the grain trade of New York—one house most of the time.

Q. Two houses most of that time controlled the grain trade? A. Because of 2½ to 5 cents per hundred lower freight rate from the west than any other houses here could get, which shut them out of the western market.

Q. Shut the others out? A. Shut the other receivers out of the western market.

Q. What houses were those? A. David Dows & Co., Jesse Hoyt & Co.

Q. During part of that time had those houses, or one of them, actual facilities in surplus of their wants? A. I know they accommodated their neighbors in some instances.

Q. Did they let out cars? A. They allowed other merchants to ship over their way bills.”

The discrimination against the producers of this State in cereals is known of all men and controverted by none. Suppose the average rate on grain from Chicago to be twenty cents per hundred, which is probably above the average, the proportion to the New York roads would be about nine cents for their haul from Buffalo to New York, or about six cents per bushel. The farmers in this State can easily compare these rates with the rates they are required to pay. The claim so often made, in justification of low rates on cereals from the west, that the State of New York consumes vastly in excess of its production, and, therefore, cheap rates on cereals from the west benefits the State as a whole, is deprived of its force by the testimony adduced upon this examination. The price of cereals is regulated by the demand. European demand regulates the demand at the seaboard, and that in turn regulates the quantity to be brought forward. Western Europe is the great consuming community of the world. It derives its supply from Eastern Europe and from America, and the price of breadstuffs is governed by the Liverpool market. The western producer can receive for his cereals the market price thus fixed, less the cost of placing his produce upon that market; and the testimony of men who have for years been engaged in this trade, who swear from actual knowledge, is that a reduction in the rate inures to the benefit of the producer west and does not affect the price to the consumer, while an increase in the rates would, *pro tanto*, decrease the price of the commodity to the producer.

Mr. John Allen, Jr., of Buffalo, the proprietor of the Allen line of steamers on the lakes, running in connection with the Central road, testifies as follows (p. 2267):

"If the owner of property can get a fraction of a cent more net profit out of grain that he would send to Philadelphia than he could to send it to New York, he would immediately shift his business, all other things being equal.

Q. Suppose that there is a difference between the Buffalo market and the Chicago market as against Buffalo, or a cut rate was made reducing, as to a particular locality, the rate from fifteen cents to ten cents a hundred, or from twenty cents to ten cents a hundred; who gets the difference, the consumer or the producer? A. On east bound property, I should say the producer.

Q. It would not make any difference on the cost of the product in New York? A. No, sir.

Q. Nor upon its value in Liverpool? A. No, sir.

Q. And what is your reason for that? A. The shipper of the property upon a reduction of rates of freight would simply advance the price of his property; we have that evidenced by the open markets in Chicago and Milwaukee every day. Take the lake freight to-day of seven cents a bushel, and to-morrow it goes down to three, and nothing else to disturb the value of the wheat but that, the wheat would advance just three cents a bushel.

Q. Just three cents a bushel at Milwaukee and at Chicago? A. Yes, sir.

Q. And the rate in New York would remain the same? A. Yes, sir.

Q. And likewise in Liverpool? A. Yes, sir."

Also at page 2268 :

"Q. The consumer gets nothing? A. You take the illustration that I made. The advance would follow at once; if lake freight advances a cent a bushel in Chicago to-day, there being nothing else to disturb the value of wheat but that, there being no other cause to put it up or down, the wheat market will decline a cent a bushel.

Q. That has been your observation during the whole course of your business? A. Yes, sir."

Charles Ensign, proprietor of a line of propellers on the lakes, and for many years engaged in the grain trade, (testifies pp. 2306-7) :

"Q. Suppose, for instance, that all other things remain the same, no special demand and no special supply, that the demand and supply remain equal, but that suddenly the rate, by competition or otherwise—the transportation rate goes down five cents a hundred, where does that difference of five cents a hundred fall? to whom does it come? A. The difference would come to the producer.

Q. You have said that when the transportation rate goes down, all other things being equal, that is, the supply and demand being equal, the amount inures to the benefit of the producer, or to the man who has the property? A. Yes, sir.

Q. When it goes up, out of whom does the transportation rate come? A. It would come out of the producer too; he has to pay it."

Capt. Frank Perew, of Buffalo, a transporter of grain, testifies (pp. 2360-61) :

"Q. When the freight rate goes up on the lakes or the rail, does the price of the products at western points go down, other things being equal? A. Everything being equal, the freights lower the grain; we will say, for instance, that wheat in New York is \$1.10; if you get it to New York from Chicago for 10 cents, that is \$1 in Chicago, sometimes \$1.02; they keep a margin against you; it depends entirely upon the expense of getting it to New York.

Q. Wheat, \$1.10 in New York; the rate 10 cents to New York; it is one dollar in Chicago? A. That is it.

Q. The rate goes up to twenty cents? A. Then it is 90 cents at Chicago; sometimes there is a little margin; if Chicago believes in the profit a little better than New York does, they will hold it a little above and force New York up.

Q. That is an incidental speculation? A. Yes, sir.

Q. It may be the other way, too? A. Yes, sir.

Q. It may be held a little above in New York, because there may be a corner or speculation in New York? A. Yes, sir.

Q. That equalizes itself? A. Yes, sir.

Q. You have observed this how long? A. Twenty-five years I have been in business.

Q. Take your illustration; the freight rate goes up to twenty cents; you say the man in Chicago takes 90 cents for his product instead of one dollar? A. Yes, sir; he pays the farmer so much less."

Washington Bullard, of Buffalo, manager of the Union Steamboat Company owned by the Erie Railway, testifies (p. 2327):

"Q. Would the rate of carriage to the shipper be any less provided the toll was taken off? A. I sympathize with Mr. Allen in his view upon that, that the man in the west is largely favored in the matter—the producer.

Q. He gets a higher price for his grain if the cost of carriage is less? A. I have stood upon 'Change in Chicago for a number of years as the representative of this Company in securing freights there, and I know very frequently that the decline in the canal rate in Buffalo put up the price of grain in Chicago: now that settles the whole question, don't it?

Q. And the same would be true in regard to railway transportation? A. Yes, sir.

Q. In regard to all transportation? A. Yes, sir."

Mr. Jones testifies (p. 2347):

"Q. All other things being equal, in the absence of a brisk demand, as you say, the reduction of rates inures to the benefit of the Chicago merchant or western producer? A. In the end to the western producer, I think, and those that happen to hold grain, of course it is to their advantage then—those that happen to be the holders of grain."

The testimony of Mr. Hinds, Mr. Bristol, and other millers at Rochester, was equally explicit upon this question.

Mr. Patterson testifies (p. 1686) to a precisely similar effect upon the oil market as follows:

"Q. State before you go further in that, how that business is operated; you say there was a difficulty? A. By simply manipulating the market by very abrupt elevations and depressions of railroad tariffs; the effect was entirely upon the producer and not upon the consumer; as the railroad freight was elevated the price of the product would be correspondingly depressed; in turn, when the railroad freight was depressed the price of the product would correspondingly rise; whoever was aware of what was to be done realized the difference, that was all."

The conclusion to be drawn from the whole testimony upon this subject is, that the European market so largely transcends the market made by any deficiency in New York productions, that it dominates and controls; and that excessively low rates on cereals from the west, while they discriminate against the producers in our own State, do not correspondingly inure to the advantage of consumers.

The contract of Schoellkopf & Mathews (Testimony, pp. 2125 and 2126) is important in many respects. First, it shows a discrimination in their favor and against other millers at Buffalo. Second, it illustrates the system of special contracts. Third, it contains in it a principle of justice which the railroads ought to recognize and enforce with regard to all shippers in the State of New York. It guarantees to them a certain percentage of the all rail rate from the west, plus a proper charge for terminal handling. It reads as follows:

"This agreement, made and entered into this eighteenth day of March, 1878, by and between the New York Central & Hudson River Railroad Company, party of the first part, and Schoellkopf & Mathews, of the City of Buffalo, N. Y., party of the second part

"Witnesseth, That said party of the first part hath promised and agreed, and by these presents does promise and agree, to transport wheat from the elevator in Buffalo, reached directly by said first party's tracks, except at such time as said tracks may be obstructed by snow or ice, to the mills which said second party may erect or operate at Niagara Falls, N. Y., at and for the rate of one and a quarter cents per bushel.

"And further, that said first party shall and will at all times give, grant and allow to said second parties, as low rate of transportation on all property shipped by them from their said mills at Niagara Falls, and as favorable facilities and accommodation in all respects as are afforded by the party of the first part to the millers of Buffalo and Black Rock. And also that the said party of the first part will transport for said second party all of their east bound New York freight at and for the price or rate of forty-seven per cent. of the current all rail through rates, via the route of party of the first part, from Chicago to New York, at the times of shipment, adding thereto three cents per barrel for flour and one and one-half cents per hundred pounds for mill feed or grain as a terminal charge, to provide for the incidental expenses attending local transportation.

"And will transport their freight to Boston and all points in New England, taking Boston rates at the same rate as to New York, with ten cents per barrel added for flour and five cents per hundred pounds added for mill feed or grain.

"Provided, however, and this agreement is made upon the express understanding and consideration that said second party shall regard and treat this agreement as confidential, and will use all reasonable precaution to keep the same secret.

"And upon condition also that said second party shall ship by the first party's road all of the product from their mill at Niagara Falls destined to all points in New York, Pennsylvania and New England, reached by said first party, directly or by connections with other routes.

"And this agreement shall be and remain in force for the term of five years from and following the first day of September, 1878, after which period it may be terminated by sixty days' written notice from either party.

"In witness whereof, the parties hereto have signed these presents the day and year first above written.

"N. Y. C. & H. R. R. Co.,

"By J. H. RUTTER,

"General Traffic Manager.

"SCHOELLKOPF & MATHEWS."

These gentlemen recognized the fact that they could not safely invest their money in building a mill without having some guarantee on the part of the railroad that they should not be discriminated against, as compared with western manufacturers of flour, and hence they required this contract preliminary to erecting their mill. The railroad, by making the contract, recognized the justice of their claim.

There is no need of multiplying specific instances. These are illustrative of the general practice which prevails in respect to special rates, upon all the roads of the State to a greater or less degree. Much testimony was taken at Buffalo and Rochester, showing the effect of railroad discriminations upon the various industries of those places, showing the same condition of affairs, modified by varying local surroundings, as exist in other parts of the State. The practice outlined above is conceded. But it is claimed that by a wise exercise of the power to grant special rates, seeming discrimination is real justice, and in reality conserves the interest of all.

One general claim has been put forth by witnesses and by counsel, that special rates are the instrumentality which railroads use to increase their business, by developing manufacturing interests at different points, and by building up wholesale and jobbing interests along the line. It was alleged as a reason for making the Schoellkopf & Mathews contract, that but for that contract this business would never have existed. If this increased the business of the road and enhanced the prosperity of the State, how vastly more would the principle of justice on which that contract is based, extended to millers at Buffalo, Rochester, Lockport, Seneca Falls, Oswego, and other milling points, increase the business of the roads and how largely contribute to the wealth and prosperity of the State; and, adopting the logic which induced the making of that contract, logic that is above criticism, and applying this principle to all the industries of the State, would correct the evils of which people complain. There is no uniform application of any rule or principle. At one time volume of business is advanced as a controlling element, so cheapening transportation that special reductions are just and proper. Again, Mr. Blanchard tells us that increase in expense very nearly keeps pace with increase in volume. (Testimony, pp. 2954-5-6.) Regularity of shipment is another consideration; and yet single shipments partake of special rates quite as largely as any. Development of jobbing trade is another reason; and yet their disparity of rates, while it may develop one man's business, tends to destroy another's. Development of manufacturing interests is their climax reason for special rates; and yet, with evidence before us that grain can be milled in transit in this State with rates adjusted upon the principle of the Schoellkopf & Mathews contract, in successful competition with the west, one of the largest manufacturing interests of the State is permitted to languish and to die out without even an attempt to "develop" or preserve it. The application of this rule is illustrated in the Testimony of Mr. Goodman (pp. 808-9-10-11.)

"Q. You made the rate for A. T. Stewart & Co. ? A. Yes, sir.

Q. Was that to build up and develop their business ? A. Yes, sir.

Q. That was the object ? A. That was one of the objects.

Q. January 11th, 1879 ? A. Yes, sir.

Q. You thought that business was not yet sufficiently built up and developed ?

A. No, sir; not the manufacturing part of it.

Q. How long had the factories of A. T. Stewart & Co. been in existence ? A. The one at Dutchess Junction about three years, I think; it isn't completed yet.

Q. And they were languishing and suffering ? A. To a great extent; yes, sir.

Q. And you acted as a fostering mother to A. T. Stewart & Co. to build it up ?

A. Yes, sir; I added my mite to develop their traffic; we wanted to carry the freight; boats might have carried it in the summer.

* * * * *

Q. Do you know anything of G. C. Buell & Co. ? A. Yes, sir.

Q. You wanted to develop their business ? A. Yes, sir; they are at Rochester—wholesale dealers.

* * * * *

Q. Do you know H. S. Ballou, of Rochester? A. I do not.

Q. He seems to be a grocer there? A. A small concern, perhaps.

Q. Small concerns are not worth developing, according to your opinion? A. Our tariff rates are low enough for them at Rochester.

Q. That is to say, a small concern ought to pay 40, 30, 25 and 20 as against a large concern, 13; that is your rule? A. Well, if he is a grocer, most of his business is fourth-class freight.

Q. And he ought to pay 20 as against 13? A. Yes, sir.

Q. That small man has no right to develop? A. He has the same chance that the other man has.

Q. At 20 against 13? A. Oh, yes.

Q. Do you call that the same chance? A. About the same chance; yes, sir.

Q. You consider it the same chance? A. Yes, sir."

Mr. Blanchard (Testimony, pp. 2846 to 2850 and 2871 to 2881) discusses this question with characteristic force and ability, and makes as strong a justification as can be made.

We quote what we regard his strongest case:

"By Judge SHIPMAN:

"Q. Now, I want to know on what basis, as a matter of fact, must you make a tariff, if you make it? A. To undertake to make a tariff, upon any one and unyielding basis, is to do that which I do not believe any railroad man capable of under the conditions we encounter; we have, for instance, on the east end of our line, the rivalry of the Lackawanna road to Paterson, entirely in the State of New Jersey; our contracts are between Paterson and Jersey City; they are for New York interests; they cannot be reached by the law of this State, and no committee of this State can influence it under any circumstances, except the legislature of New Jersey, and the questions to which I have referred come up there; the identical question did come up in bidding for a portion of the work of the elevated railroads in the city of New York; we competed with Edgemoor, a station near Wilmington, on the Delaware river.

Q. On whose road? A. On the Philadelphia, Wilmington & Baltimore road. Now, any rule or rates that we might have formerly laid down for the charge of the transportation of that property by rail from Paterson to New York was valueless except as a general guide. In the completion of a vast work, here in the city of New York, various and vital considerations spoke to us. The Paterson bidders procure their coal over our railroad, they started up foundries that had been idle, it did away with some of the stagnant conditions of prior loss and panic, the people travelled more, it increased our commutation passenger business, they brought in fire-brick at our full local rates for the purpose of lining their furnaces, they brought in new iron material from other parts of our line where they could get it cheaper than to make it, it aided to start up the silk industries of the City of Paterson, it helped the locomotive works which built the elevated railroad locomotives; and here was an aggregate of traffic secured to us by judicious special rates, where an inflexible rule might have sent the business to Edgemoor and Delaware; and what possible good could that have done to any interest in the State of New Jersey or New York?"

But even he (pp. 2894-5) admits the gravamen of all complaint:

"Q. You do not even make the average cost of the previous year the minimum price in making a special contract? A. We cannot for the reasons I have stated.

Q. Do you carry local freight at a loss? A. Sometimes, in order to get some other local freight that will pay us more.

* * * * *

Q. Then, taking your statement of the business as you transact it, and as you think it must be done, it does inevitably and frequently occur that where you make a loss upon certain shipments, and make a general profit on your whole business, that the loss is made up by other individuals and other shippers? A. Yes, sir; it must be so.

In a speculative attempt to increase business they favor one shipper at the expense of another.

Mr. Blanchard (Testimony, pp. 2920-1) shows the terminal expense of the largest and smallest stations on each division of the Erie road, and shows the aggregate cost of terminal handling at Melville and Hooper last year to have been 33 cents per hundred pounds, and then infers:

"How impracticable it would be to make a ruling that in all cases the shorter distance should not be charged at a rate exceeding the greater, and at the same time deal justly by the railway company."

We have seen what gross infractions our railroads make upon the apparent rules of justice; and yet let the State propose to make a general rule or law and they immediately produce some remote exception, and insist that it argues the injustice and unwisdom of such a law; still Mr. Blanchard does not regard cost of terminal handling, and makes rates disregarding even the average cost of handling and haul. It is possible, under the present system, for an engine to start from any one point hauling cars of the Blue, White, Red, Canada Southern and Merchants' Despatch Lines, all laden with the same class of goods, consigned to the same point, and the goods on each of the different lines being carried at a different rate—five different rates on the same goods, in the same train, between the same points, at the same time. (See Testimony of Albert Fink, pp. 520, 521.)

One great wrong of this system is that there is no unit of volume at which one man can ship as cheaply as another. Suppose two merchants at A; one is able to buy one car load of goods to dispose of to his customers, the other is able to buy ten car loads, and he is given a difference in rate equal to a profit on handling the goods, or nearly so. Result, the smaller dealer is frozen out. This supposititious case has its actual counterpart all along the line. Shipping large quantities at a minimum price, and small quantities at a maximum rate aggravates monopoly, increases the rich man's wealth and the poor man's poverty. The principle of wholesale enters as legitimately into railroad carriage as into any private business; but where additional quantity ceases to lessen cost of carriage or be of pecuniary advantage to the road, there difference in rate should cease. Volume, regularity, cost of terminal handling, season of the year, and various other elements, properly enter into the determination of a rate; but there should be some recognized unit of shipment at which one man can obtain a rate as low as another.

Mr. Vanderbilt distinctly recognized the car load as a proper unit. (Testimony, pp. 1301-2-3.)

"Q. Suppose a man loads for you one car every day from Amsterdam for New York, regularly, of a certain class of goods, and another man loads for you two cars every day from the same point, of the same class of goods, is there any reason under those circumstances why you should charge one man more per car than another? A. It is not likely he would be charged more."

Q. As a principle of railroad management, ought he to be, under those circumstances? A. No; I don't know as he had."

Mr. Jewett recognizes the same unit of shipment (Testimony, p. 1481):

"Q. Suppose a man wanted to ship one car load of grain from your western terminus to your eastern terminus, a single shipment, and another man wanted to ship two car loads, ought you to charge the one man more than twice as much as the other? A. Whether we ought or not, I don't think we ever do it; I don't think we ought to."

Q. Do you or do you not think that a car load would be a proper unit of shipment in determining these matters, all other things being equal? A. As a practical question, without regard to the moral of it, I don't think I would make any difference in my ordinary business arrangements."

Mr. Fink, the present pool commissioner, and a recognized authority on all railroad questions, discusses this question with such perspicuity and force, and his views so heartily accord with the views of the committee, that we quote them at length (Exhibits, pp. 149-150):

"Answer. It is sometimes urged that railroad companies should grant lower rates on large shipments, upon the same principle that wholesale merchants can sell cheaper than retail merchants. The same reasons why wholesale merchants can sell cheaper than retail merchants do not apply to the case of large or small shipments on railroads, when we have reference merely to car load shipments. The cost of retailing merchandise is much greater than the cost of selling it in large quantities. It requires a different kind of an establishment, larger warehouses in comparison with the goods stored, more clerks, longer time to sell the same quantity of goods, slower returns, etc."

"In the case of shipments on railroads in less than car loads, the cost will be greater than full car load shipments—not always, but as a rule. Cars cannot be fully loaded when a number of small shipments are made, which have to be unloaded at different stations. After unloading one shipment at an intermediate station the train has to proceed with the smaller load, but without reducing expenses in proportion. It is therefore proper that the shipper should pay the additional cost. There is good ground for discriminating between small and large shipments. But when shipments are made by the car load, where it is merely a question of one or more car loads, no additional cost is incurred by the railroad company."

"Whether these shipments are made by one or by many shippers, it costs the same. It costs no more to ship car loads of freight between two stations of a railroad, whether they belong to one shipper or to ten shippers, whether one man ships ten car loads or ten men ship one car load each. There is no ground for discriminating in favor of the large shipper. Any discrimination made in his favor is entirely arbitrary."

"There is no rule, no principle on which it can be established or defended. All arbitrary discrimination works injustice to others."

"Take a flour mill producing ten car loads of flour a day, and along aside of it at the same station a mill producing only a car load. The railroad company decides that it gives to the larger mill a rebate of 25 cents a barrel. This of itself constitutes a fair profit."

"The large mill can undersell the small mill in any market in which they are competitors. It can sell at cost and make 25 cents per barrel profit, when the other mill, if it wants to sell at all, must sell without any profit at all. This leads to breaking up of the small establishment, and the railroad company is the instrument through which it is accomplished."

"A common carrier has no right to make itself a party to such transactions. Moreover, it is not to its advantage to do so. This policy of discrimination prevents the employment of small capital and prevents the building up by slow degrees the industries of the country. Only large capitalists can afford to carry on business, and they are not always to be found. From small beginnings, if properly fostered, large enterprises are built up. The larger manufacturers enjoy already sufficient advantages over the smaller. Being able to produce cheaper, they do not require the aid of railroad companies to still farther discriminate in their favor."

Also at page 152 of the Exhibits:

"The practice of making special contracts with some shippers—the larger shippers generally—at lower than regular rates, and charging the regular rates to all other shippers, constitutes one of the most unjust discriminations. It is practised to a great extent. The rates of transportation between two points should be the same to all shippers."

"The payment of rebates, drawbacks, by which means their unjust discriminations are practised, should be forbidden."

He who goes into a railroad office and barbers for a low rate gets it; he who, relying on the equitable treatment which common carriers are bound to give, or not knowing that secret special rates may be had, delivers them his goods and calls for his freight-bill, pays a higher rate. Competition among railroads as a regulator of freight tariff is a failure. From their nature they do not admit of competition in the sense in which that word is generally understood and used. No community can support parallel railroads. Practically but one road reaches the same territory except at certain specific points—competitive. Even in the absence of any pooling agreement, there is no such competition as is afforded by the scores of grocery-men, hardware, dry goods, and other dealers, to the public in the purchase of the various kinds of merchandise that supply their wants; and where competition does exist it is of a cut-throat rather than of a business character. It is demoralizing and unjust to the public instead of protecting it against excessive charges. It gives certain points and certain shippers—large shippers, as a rule—very low rates, which intermediate points and other shippers are taxed to equalize.

The competition of water ways serves as a general regulator of rail rates. We have discussed its importance in this country; and the cost of transportation by vessel from Odessa, the great grain emporium of the East to Liverpool, has an important effect upon the rates of transportation here. These two granaries of the world, competing to supply this market of the world, measurably fix the cost of transportation on both continents. In a general way, between one country and another, between one section and another, between rail and water, which is a free highway, competition exercises a beneficent office, and the natural laws of rivalry and trade adjust and correct evils in the aggregate; but as the railway is artificial, so must the restraining power that adjusts the relations between through and local traffic, between competing and non-competing points, between large and small shippers, be artificial also.

The evils that railroad competition leads to, and with which we are too familiar, are succinctly set forth by Presidents Vanderbilt and Jewett in their joint letter (Testimony, p. 56):

"This character of competition, as is well known, has been carried to great extremes, and to the great and unnecessary loss of profit to the railroad companies, without corresponding benefit to shippers or consumers.

The shippers are not profited, because the rates are liable to be changed at any moment, and the shipper who engages for the transportation of his freight at a specified rate in the morning may find that an hour later another shipper has secured a less rate, and the profit of the first shipper is at least put at hazard.

These frequent changes of rates disturb and derange business and make results a game of chance."

All of the principal railroads east of St. Louis, twenty-six in number, have recognized the evils attendant upon special rates as to through business, and as a part of their pooling arrangements, agreed (Exhibits, p. 311) as follows :

"To discontinue hereafter the practice of contracting for any special or given lots, blocks or quantities of freight at tariff rates or less than tariff rates to the seaboard, on home or foreign business ; and it is further agreed that ten days' notice is to be given of any increase in the rates, and that all shipments not actually made during these ten days will not be made at less than the increased rates."

And their reasons for so doing are stated on page 313 of the Exhibits :

"The practice of making special contracts has heretofore been in the way of maintaining the established tariffs and of securing equal rates to all shippers for similar services performed.

The above action is taken by the joint executive committee in the interest of the railroad companies, as well as in the interest of the shippers."

We have already called attention to specific examples of the injurious effects of local special rates. It is important to note in the above agreement the recognition of a fixed time as a preliminary notice to an advance of rates. This secures to shippers a knowledge of what the rate is, and thus avoids the evils of uncertainty and secrecy.

Competition, therefore, stands confessed from all quarters as failing to consult either railroad or public interest in the part it plays in fixing rates. The only other element which is admitted to control traffic managers in making a rate, is to charge what an article will bear and at the same time not prevent its movement and stimulate its production. To any one not a practical railroad man it would seem that the cardinal elements that ought to control a railroad tariff are cost of transportation—to use the word "cost" in its broadest sense—interest upon bonds, and a dividend upon stock. In the joint letter above quoted (p. 71) they say : "The amount of capital in none of the roads affects the rates for transporting freight or passengers ;" and every railroad man who has been before us has testified that amount of capital, and hence interest and dividend, is not considered, and cost of transportation is not controlling, and "practically" disregarded in making rates. Instance Testimony, p. 414. Their rule of action is succinctly this : they first get the business ; second, get all they can for it. If the year's balance sheet does not show a loss, good ; if it shows a profit and warrants a dividend, better ; if it shows neither, it is not their fault, they got all they could ; and it seemed to your committee that it was owing to this method of conducting their business that the railroads were unable to give us more specific data as to the actual cost of transportation. They gave us the cost of their aggregate business but could not approximate even the cost in any of its various details ; could not separate New York State from through business, nor give any comparison of the cost of

through and local business. Mr. Jewett did tell us that neither through nor local business would pay of itself; only their combined volume was profitable. It is in evidence that local freight rates on our trunk lines are less than on the roads of any other State (Testimony, pp. 2884 to 2889), and less than on the roads of any other country in the world. From a comparative standpoint it would therefore seem that the prominent thing of which the people may justly complain is the discriminations and the disregard of any proper ratio between different points of shipment.

Now, as to the necessity for some regulation to protect the public, see Testimony of Mr. Rutter, pp. 453-4, where he testifies that he serves the stockholders only, and regards the public interest to make it tributary to the interest of the stockholders.

Mr. Vilas (Testimony, pp. 414-15) testifies to the same controlling motives. Mr. Blanchard, after describing a railway officer as subject to three practical tribunals—first, the president of the road; second, the law as laid down affecting transportation; and third, the unwritten law of commerce—says:

"It has been our policy in this matter, while keeping within the statute law, as far as I knew it or had occasion to know it, that wherever this public unwritten law came into contact with the interests of the shareholders, I believed it to be my conscientious duty to decide in favor of the shareholder; I knew of no claim that the non-shareholding interests had upon me as a railroad officer so long as I was within the written law, to concede its views in the matter of rates, and in the management of our traffic."

In the joint letter (Testimony, p. 47), Messrs. Vanderbilt and Jewett say:

"That the managers of a railway company desire to make all the money they can for their clients, and to do this they have constantly before them the question what rate *within their chartered limits* will an article bear that will yield the largest profit and at the same time stimulate its production."

The marked importance which is here attached to keeping within the law emphasises the necessity for a law, for governmental control. The railroads have already confessed the necessity for regulation and supervision to protect them from the disastrous consequences of their own acts—acts of their own management. And never invoking a law, they have resorted to different expedients. Among the earliest was the "evening system," established in June, 1875, for the purpose of ending a war of rates on cattle shipments and securing a proper compensation for the service performed. The trunk lines leading to New York agreed upon a percentage of the business which each road should receive, and appointed three cattle eveners, whose duty it was to see that the shipments were made over all of the roads in the agreed proportions, and for that service they were to receive \$15 a car, when it was started. Mr. Vilas (Testimony, pp. 397-8) explains:

"Q. They received fifteen dollars for hauling each car as commissions? A. Yes, sir; for services.

Q. For services of seeing that each road received its agreed percentage of the total amount shipped from Chicago east? A. Yes, sir; or from any point; for instance, if we were entitled, we will say, to two hundred and fifty car loads of cattle this week, and every week, and at the end of the month we were short of our proportion, shippers had not shipped over our road say more than two hundred cars every week, making us two hundred cars short, it was the duty of these eveners to make the shipments over our road; if they had to go and buy the cattle, they had to see that our proportion was made up."

They received \$15 on every car load of cattle shipped from the west to New York, no matter by whom shipped, whether they shipped it or had anything to do with it or not. The commission was later reduced to \$10. They soon became large shippers of cattle; and with these margins in their favor, "evening" was not difficult business. The crude kind of justice here attempted proved ineffectual, and last spring Mr. Vanderbilt proposed to break it up. It took a war of rates to do it. As Mr. Vanderbilt testifies (Testimony, p. 1659) his road carried one thousand car loads from Chicago to New York at one dollar per car, of which the Central got thirty cents. He succeeded, however, and now every man is made his own evener; i.e., if he ships his cattle by the road he is requested to, he gets a certain price; if he ships contrary to directions, his price is made ten dollars per car higher; and this is said to work very well, the rates, via all routes, of course being the same.

For some time, what is popularly known as the pooling system has, with varying success, been the instrumentality relied upon by the railroads to save them from the consequences of ruinous competition. It is intermittent in its workings, has been frequently broken by severe wars of rates, and liable at any time to infraction. Nothing but self-interest supports it, and whenever self-interest points its rupture it is sure to be broken.

These agreements are a decided improvement upon the condition of affairs which they succeeded. There is nothing so fatal to the successful prosecution of any business dependent upon transportation as uncertainty of rates. It reduces trade to a game of chance, and neutralizes business ability. The objection to these agreements is that they lack stability, are dependent upon concerted action of the railroads, possess no power to enforce themselves; second, never can be relied upon to protect the public, because the men who make them have not, according to the evidence heretofore noted, a proper conception of their relations to the public. These are reasons why the government should exercise its control.

Mr. Blanchard tells us the pool will continue and will grow in extent and be respected, because roads are beginning to find out that they are better paid; by so doing they get better rates and make more money. The

possibility of combining practically under one management over 80,000 miles of railroad, with capital aggregating about five billions of dollars, is certainly a strong reason why the government should subject this vast interest to proper regulation. The proposition that Congress should give to the pooling agreements the force of law, if practicable—which is doubtful—the people of this country, with the good reason they have to distrust the exercise of vast corporate power and the motives of some of the most potent railway kings, will never consent to; and this brings us to the embarrassing question of what shall be done.

RECOMMENDATIONS.

The question we are called upon to consider is as broad as commerce, and commerce is king, with the whole world for vassals. It has kept pace with progress and grown with civilization. It extends its blessings and its burdens alike to the remotest hamlet. The cost of transportation enters into what we eat and what we wear, that which preserves and nourishes our physical nature and that which administers to our spiritual. It enters into the necessities of life and is equally potent in determining our luxuries. Though it only affects certain industries and certain interests directly and perceptibly, its influence is equally potent in all the ramifications of society. The problem of transportation is an unsolved one, and from its very nature must ever remain so. Each generation must determine for itself. The constantly shifting conditions which surround it, the ever changing elements that enter into it, the continual offerings which genius contributes to cheapen and facilitate transportation, present an ever shifting phase to this kaleidoscopic question, calling for an ever varying solution. The telegraph, the steel rail, the improved motor, the Atlantic cable and kindred causes, have revolutionized and are continually revolutionizing commerce. The tariff of a dozen years ago seems extortion in the light of present charges. Called from various pursuits to consider this question, we were naturally embarrassed by its magnitude and the vital interests involved; and now, at the point of suggesting remedies for the wrongs proven to exist, remedies in themselves not difficult of suggestion, we are confronted with practical difficulties of a very embarrassing nature.

The jurisdiction of this State is too limited. Proxies, watered stock, annual reports and other matters within our State limits, are within our control and should be fully and properly regulated. The New York Central is the only road engaged in the carriage of freight to and from the west wholly within our jurisdiction. The Erie is a New York corporation, but runs through three States and has its eastern terminus in a foreign State. Even the port of New York, that contains the city of our pride and our

solicitude, is not wholly within our control. The eastern borders of her harbor are marked by the coast of a foreign State. Thirty-four per cent. of New York's business is done by powerful rivals of our own roads that tap the granaries of the west by the shortest and most direct route. We might enact laws that would drive the business from our own roads without improving the condition of affairs in this State. Indeed, such a course would aggravate matters, for the interests of these rival roads centre in rival cities.

We might cripple the prosperity of New York; we might enact laws that would build up Jersey City and transfer the legitimate growth of New York to the Jersey coast. It is as imperative that such consequences be avoided as it is that present wrongs be redressed. While the laws of commerce ignore political divisions wholly, our jurisdiction is circumscribed by the limits of the State of New York.

States divided by navigable waters, which are everybody's highway, present borders which the two systems of traffic must respect, and the breaking of bulk and terminal expense incidental thereto is unavoidable; but the artificial line of the surveyor, marking a political boundary, though it may determine where a man shall vote or pay his taxes, least of all lines has neither breadth nor thickness in determining the currents of trade. Whatever prominence may be attached to State individuality and State rights, in a commercial sense we are eminently a nation, and the sooner that fact is recognized the better it will be for our commerce. There is not the slightest reason why the Liverpool merchant should not buy his grain, graded, in Kansas City, by cable, and have it placed alongside the dock at Liverpool with but one intermediate handling—the transfer from car to vessel at the seaboard. In the close competition of the present age transportation must be cheapened to that extent, and it were absurd to expect produce to be handled at New York for the sake of enabling those who handle it to make a profit. The point of production will seek the point of consumption by the cheapest and quickest route, and kings and parliaments are powerless to prevent. The complaint that New York makes as to the loss of the jobbing trade, Chicago must make and St. Louis also. Certainly, 90 per centage of the complaints lodged against railroads is due to the inoperable laws of trade. Congress, with power commensurate with our territorial limits, in conjoint action with the States, can regulate this matter. Under the Federal constitution, Congress can regulate interstate commerce, while the States only can regulate that within their borders.

The complication of jurisdiction is emphasised by the peculiarities of our geographical position. The Baltimore & Ohio and Pennsylvania railroads

reach New York City by lighterage and ferry from the Jersey coast without anywhere coming within our jurisdiction. The Erie road has thirty-five points of actual contact and competition with other roads (Testimony, p. 2845). Many of these points of contact are with roads leading to Philadelphia and Baltimore. The New York Central has nine point of actual contact with roads running or connecting through to Philadelphia and Baltimore. Many of these competing roads are foreign corporations, running but a few miles within this State, and therefore could be controlled by absolute law to but a limited extent.

Rates ought not to be secret; but to go to the extreme urged by some, and compel the publication and posting of rates at all stations within this State, and prescribe a fixed period that all rates must be posted before they could go into effect, a rule that would be eminently just and proper could it be enforced generally throughout the country, would not only give notice to the public, but also to all competing roads. And at all points of contact—and there are many along the Erie and Central also—Pennsylvania and New Jersey roads could make their rates just enough lower to get the business and take it to Philadelphia or Baltimore, or even to New York over their lines. For instance, the Delaware, Lackawanna & Western, in fixing a through rate from Oswego or Utica to New York, can comply with any requirement the legislature may enact, until they get to the State line and then, unrestricted as they are in Pennsylvania and New Jersey, could vary their rates so as all the while to place our own State roads at a disadvantage; this road, which is a Pennsylvania corporation, might publish its rates at all New York stations, and for instance charge twenty-five cents per hundredweight from Oswego to the State line, and nothing from there to Jersey City. The line being a continuous one, it would make no difference to its treasury whether the charge was located upon a portion of its line, or the whole of it. The same may be said of the Northern Central running from Canandaigua to Baltimore, and the same of the Buffalo, New York & Philadelphia, running from Buffalo to Philadelphia, and others. Our railroads should be forbidden to make secret rates, and compelled to treat all shippers alike; but the propriety of compelling the publication of rates and the publication of all proposed changes is a matter for your serious consideration.

Your committee made an earnest effort to ascertain the cost of transportation, and the relation of the cost of through and local traffic. The best information that we could obtain does not enable us to suggest the enactment of any *fixed ratio* between State and extra State points, neither are we able to suggest the enactment of any *fixed ratio* between different points within this State. A thorough consideration of all the evidence adduced

upon this subject, and of the subject itself, induces the conviction that the passage of what is popularly termed a *pro rata* freight law would be prejudicial to the interests of the public. The experience of Western States in this direction ought to be a warning and a satisfactory reason for declining to bring this subject into the field of legislation in this State. While there are certain general propositions that may with propriety be laid down by the legislature for the control of traffic managers in the adjustment of rates, within those general rules there must be permitted an elasticity of management and freedom to exercise judgment and discretion upon the ever varying questions that constantly present themselves for action. As a principle of railroad management, no more should be charged on small shipments than on large shipments, proportionately than the additional cost for handling.

A proper unit of shipment should be fixed. The practice of charging more for a short haul than for a long haul should be forbidden; the granting of unequal or preferential rates should be forbidden; the making of secret rates and the giving of drawbacks and rebates for such purpose should be forbidden; and your committee are of the opinion that the legislature may safely go to this extent without infringing the proper discretion and elasticity of management which railroad managers must of necessity possess, without driving the business from our own State roads to the rival roads of other States, without driving the commerce from our own cities to rival cities, and without in the slightest degree infringing or compromising the vested rights of railroad property. Your committee, therefore, accompany their report with proposed legislation designed to correct the above evils and the evils of the proxy system; designed to remove the defects in the law requiring an annual report to the State Engineer and Surveyor, so that said report shall disclose a full and complete history of the year's transactions of the road, both financial and otherwise; designed to remove those provisions of law whereby it is possible to issue bonds convertible into stock, convert them into stock and place the stock upon the market, all in one transaction, as was notably done during the Fisk and Gould administration of the Erie, and which may be done at any time for the purpose of obtaining or maintaining control of a road; amending the law passed in 1869, and still in force, which permits any two railroads, upon consolidation, to fix their capital stock at any amount, or, in other words, to infuse any amount of water into it; amending that provision of law which provides for issuing stock by railroads, so as to give to the transaction publicity, and require, preliminary thereto, the consent of the public, through its proper officers; and designed to prevent discriminations upon like and cotemporaneous shipments.

The business of transportation requires the greatest freedom of management of any business extant. This is manifest to the most casual observer.

The difficulty and the danger of imposing cast iron regulations upon our railroads, especially in view of the fact that they would apply to our railroads only, leaving their competitors free and untrammelled, compels us to inquire what other means or instrumentality may be made effective in obtaining the redress which the public seek and to which they are entitled. Certainly, a railroad, in order to be successfully managed and prosperous, in the whirlpool of competition of the present time, must be run by brains and not by legislation ; and the reforms in railroad management must come through railroad managers by means of a public pressure brought to bear upon them. The claim given prominence by Mr. Depew, that railroads, in guarding the interest of their stockholders, will regulate themselves, would have more force were it not painfully apparent that railroads are not always run in the interest of the stockholders. During recent years the management and the stockholding interest of the New York Central have been identical, and that road has been conducted with the best of economy and with exceptional ability ; but, according to Mr. Depew himself, under prior managements, the interests of the stockholders were disregarded in various ways. Boards of railroad directors frequently represent but a small share of the stockholding interest ; and, under the temptations which our railroad system holds out, have in the past frequently consulted their own interests to the detriment of the trust which they represented.

It seems to your committee that the wrongs that exist may be ameliorated, if not corrected, by introducing into the determination of these questions a public element which shall give to the public interest a consideration which the evidence shows it does not now receive ; and to that end we recommend a commission, to be composed of three individuals, with power of investigation and recommendation.

The claim recently put forth through the press by Mr. Vanderbilt, that in case of a commission, the commission must either own the railroads or the railroads own it, presupposes an absolute hostility between the interest of the railroads and the interest of the public, which in the judgment of this committee does not, or at least should not exist ; and also a degree of venality on the part of public officials which a judicious executive will easily avoid. The prosperity of our State is inseparably connected with the prosperity of our railroads. And in contending for commercial supremacy and the control of the traffic of the west and southwest, with their constantly growing power in questions of commerce and of government, public and railway interests will be identical and their efforts must be united. This emphasises the necessity of immediately correcting the evils of railway management in this State, in order that all interests may be united.

A commission, to be properly constituted, should, as does the English commission, give a representative to the railroads as well as the public. One of the commissioners should be a man thoroughly familiar with the business of railroading, one of recognized ability, and a recognized authority upon such questions; another should be a representative of the commercial interests of the city of New York, and another should represent the interests of the interior of the State; and one of the three should possess legal training.

With a commission thus constituted, composed of men of recognized ability and unquestioned integrity, who should devote to this vast question their especial consideration and entire attention, it seems to us it would be alike profitable to the public and to the railroads. By means of their powers they could bring railroad management into the scrutiny of the public, and subject it to the influence of that most powerful of all motors for the correction of evil—public opinion. This will afford to the public a tribunal to whom they can appeal for a redress of grievances, easily and without expense; whereas, now the only redress is to be had in a legal controversy with a powerful corporate interest. If wrongs should be practised or attempted, the commission, by investigation, could bring them to light, and the restraining effect of possible or probable exposure of improper management would, in itself, be a powerful conservator of public interests. Commissions have been tried in many other States of the Union, and from their long continuance it is to be presumed that they have worked satisfactorily and beneficially there. While we easily foresee that an improperly constituted commission, composed of dishonest and incompetent men, would be alike a curse to the railroads and to the public, yet the necessity of enforcing a proper relation of these vast interests to the public and holding them to a proper accountability, and especially in view of our State Government as at present constituted, your committee are of opinion that the example of other States and other countries in respect to a commission may, with propriety and with profit, be copied by us. Your committee have suggested remedies for the prominent evils discovered. The very limited time since our testimony was in print has not enabled us to review the whole field of legislation with the thoroughness desired, but the testimony submitted and the wisdom of the legislature will suggest such remedies as we have omitted to specify.

RELATIONS OF THE STATE TO THE RAILROADS.

The relation of the State to the railroads and its power over the same is fully and clearly laid down in *Munn v. Illinois*, 4 Otto, 113; *Chicago, Burlington & Quincy Railroad Co. v. Iowa*, reported in the same volume;

Peck v. Chicago & North-Western Railway Company, and three other cases following, reported in the same volume; *People v. Boston & Albany Railroad Company*, 70 N. Y. 569.

In accordance with the doctrine laid down in these cases, the legislature has not only the power to regulate the transportation of freight and passengers upon our railroads, but it has the power to regulate the charges of all other persons or corporations whose functions are, by lease or contract with the railroads, made a necessary link in the chain of transportation, including the charge for elevating and warehousing, the charge of express companies, sleeping-car companies, drawing-room car companies, stock yard companies, and the charge for the terminal handling of oil, fast freight lines, etc.

A. B. HEPBURN, *Chairman*.

H. L. DUGUID,

JAMES LOW,

WM. L. NOYES,

JAMES W. WADSWORTH.

CHARLES S. BAKER.

I concur in the summary of the evidence and in the statement of facts embraced in the report, and generally in the recommendations that it embodies. I dissent to the proposition for a commission.

J. W. HUSTED.

I concur in the report, except that part of it which recommends a commission. I believe that restrictions upon railroad management should be imposed by law instead of intrusting such important interests to the discretion of a commission.

GEO. L. TERRY.

Dated ALBANY, *January 22*, 1880.

NOTE:—In this report the words "New York Central" and "Central" have been frequently used to designate the New York Central & Hudson River Railroad; and the word "Erie" to designate the New York, Lake Erie & Western Railroad.

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APPENDIX TO REPORT.

AN ACT

To amend sections nine and twenty-eight of chapter 140 of the laws of 1850, entitled "An Act to authorize the formation of railroad corporations, and to regulate the same."

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SEC. 1. Section nine of chapter 140 of the laws of 1850, entitled "An Act to authorize the formation of railroad corporations, and to regulate the same," is hereby amended so as to read as follows :

§ 9. In case the capital stock of any company formed under this Act is found to be insufficient for constructing and operating its road, such company may, with the concurrence of two-thirds in amount of all its stockholders, *and the written approval of the State engineer and surveyor, until such time as there shall be appointed a board of railroad commissioners and after that with the written approval of such board,* increase its capital stock from time to time, to any amount required for the purposes aforesaid. Such increase must be sanctioned by a vote in person, or by proxy, of two-thirds in amount of all the stockholders of the company, at a meeting of such stockholders, called by the directors of the company for that purpose, by a notice in writing to each stockholder, to be served on him personally, or by depositing the same, properly folded and directed to him at the post-office nearest his usual place of residence, at least twenty days prior to such meeting. Such notice must state the time and place of the meeting, and its object, and the amount to which it is proposed to increase the capital stock. The proceedings of such meeting must be entered on the minutes of the proceedings of the company, and thereupon the capital stock of the company may be increased to the amount sanctioned by a vote of two-thirds in amount of all the stockholders of the company as aforesaid. *A copy of such notice shall*

also be published within the county where the main office of such corporation shall be located, once a week for four weeks prior to such meeting, in a newspaper to be designated by the State engineer and surveyor until such time as a board of railroad commissioners shall be appointed, and after that time by such board, and in no case and under no circumstances shall any railroad company of this State increase its stock except upon the notice and with the approval herein provided. Any officer or director of any railroad company violating the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than six months, and by fine not exceeding one thousand dollars.

§ 2. Section twenty eight of said Act is hereby further amended so as to read as follows :

§ 28. Every corporation formed under this Act shall, in addition to the powers conferred on corporations in the third title of the eighteenth chapter of the first part of the Revised Statutes, have power :

1. To cause such examination and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route ; and for such purpose by its officers or agents and servants, to enter upon the lands or waters of any person, but subject to the responsibility for all damages which shall be done thereto ;

2. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railroad ; but the real estate received by voluntary grants shall be held and used for the purpose of such grant only ;

3. To purchase, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its road, and the stations and other accommodations necessary to accomplish the objects of its incorporation ; but herein nothing contained shall be held as repealing, or in any way affecting the Act entitled " An Act authorizing the construction of railroads upon Indian lands," passed May 12, 1836 ;

4. To lay out its road not exceeding six rods in width, and to construct the same ; and for the purpose of cuttings and embankments, to take as much more land as may be necessary for the proper construction and security of the road ; and to cut down any standing trees that may be in danger of falling on the road, making compensation therefor as provided in this Act for lands taken for the use of the company.

5. To construct their road across, along or upon any stream of water, water-course, street, highway, plank-road, turnpike or canal, which the

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route of this road shall intersect or touch ; but the company shall restore the stream or water-course, street, highway, plank-road and turnpike thus intersected or touched to its former state, or to such state as not unnecessarily to have impaired its usefulness. Every company formed under this Act shall be subject to the power vested in the canal commissioners by the seventeenth section of chapter two hundred and seventy-six of the Session Laws of eight hundred and thirty-four. Nothing in this Act contained shall be construed to authorize the erection of any bridge, or any other obstructions across, in or over any stream or lake navigated by steam or sail-boats, at the place where any bridge or other obstructions may be proposed to be placed ; nor to authorize the construction of any railroad not already located in, upon or across any street in any city, without the assent of the corporation of such city ; nor to authorize any such railroad company to construct its road upon and along any highway, without the order of the supreme court of the judicial district in which said highway is situated, made at a special term of said court, after at least ten days' notice in writing of the intention to make application for said order shall have been made to the commissioners of highways of the town in which said highway is situated ;

6. To cross, intersect, join and unite its railroad with any other railroad before constructed, at any point on its route, and upon the grounds of such other railroad company, with the necessary turnouts, sidings and switches, and other conveniences in furtherance of the objects of its connections. And every company whose railroads is or shall be hereafter intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connections, and grant the facilities aforesaid ; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points and manner of such crossings and connections, the same shall be ascertained and determined by commissioners to be appointed by the court as is provided in this Act in respect to acquiring title to real estate ; and all companies whose railroads are or shall hereafter be crossed, intersected or joined as aforesaid, shall receive from each other and forward to their destination all goods, merchandise and other property intended for points on their respective roads, with the same dispatch and at a rate of freight not exceeding the local tariff rate charged for similar goods, merchandise and other property received at and forwarded from the same points for individuals and other corporations ;

7. To take and convey persons and property on their railroad by the power or force of steam or of animals, or by any mechanical power, and to receive compensation therefor ;

8. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of their passengers, freights and business ;

9. To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor ; but such compensation for any passenger and his ordinary baggage shall not exceed three cents per mile ; *the re-enactment of this provision shall not be construed as increasing the rate of passenger fare which any railroad of this State is now authorized to charge ;*

10 From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for any amount so borrowed, and to mortgage their corporate property and franchises to secure the payment of any debt contracted by the company for the purpose aforesaid ; and the directors of the company may confer on any holder of any bond issued for money borrowed as aforesaid, the right to convert the principal due or owing thereon, into stock of said company, at any time *not less than two nor more than twelve years from the date of the bond, under such regulations as the directors may see fit to adopt ; provided, however, that if the already authorized capital stock of such corporation, at the time such bonds may be issued, shall not be sufficient to meet such conversion when made, the stockholders shall, before such issue and in the manner hereinbefore provided, authorize an increase of capital stock to an extent sufficient to meet the deficiency.*

§ 3. This Act shall take effect immediately.

AN ACT

To amend section two of chapter 917 of the laws of 1869, entitled
“ An Act authorizing the consolidation of certain railroad companies.”

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SEC. 1. Section two of chapter 917 of the laws of 1869, entitled “ An Act authorizing the consolidation of certain railroad companies,” is hereby amended so as to read as follows :

§ 2. Such consolidation shall be made under the conditions, provisions and restrictions, and with the powers hereinafter in this Act mentioned and contained, that is to say :

1. The directors of the companies proposing to consolidate may enter into a joint agreement, under the corporate seal of each company, for the consolidation of said companies and railroads, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers, and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each of said companies into that of the new corporation, and how and when directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization and the consolidation of said companies or railroads. *But in no case shall the capital stock of the company formed by such consolidation exceed the sum of the capital stock of the companies so consolidated, at the par value thereof. Nor shall any bonds or other evidences of debt be issued as a consideration for or in connection with such consolidation.*

2. Said agreement shall be submitted to the stockholders of each of the said companies or corporations at a meeting thereof called separately for the purpose of taking the same into consideration; due notice of the time and place of holding said meeting, and the object thereof, shall be given by each company to its stockholders by written or printed notices addressed to each of the persons in whose names the capital stock of such company stands on the books thereof, and deliver to such persons respectively, or send to them by mail, when their post office address is known to the company, at least thirty days before the time of holding such meeting, and also by a general notice published daily for at least four weeks in some newspaper printed in the city, town, or county where such company has its principal office or place of business; and at the said meeting of stockholders the agreement of the said directors shall be considered, and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote, and said ballots shall be cast in person or by proxy, and if two-thirds of all the votes of all the stockholders shall be for the adoption of said agreement, then the fact shall be certified thereon by the secretaries of the respective companies, under the seal thereof, and the agreement so adopted, or a certified copy thereof, shall be filed in the office of the Secretary of State, and shall from thence be deemed and taken to be the agreement and act of consolidation of the said companies; and a copy of the said agreement and act of consolidation, duly certified by the Secretary of State under his official seal, shall be evidence in all courts and places of the existence of the said new corporation, and that the foregoing provisions of this Act have been fully observed and complied with.

§ 2. This Act shall take effect immediately.

AN ACT

To regulate voting by stock and bondholders of railroad corporations.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SEC. 1. In voting for the election of directors, or for any other purpose, by stock or bondholders of any railroad corporation in this State, no proxy shall be valid unless executed and dated within three months prior to the election at which it is to be used. It shall not be lawful for any person to vote upon, or to issue a proxy to vote upon, stock or bonds not actually owned by him. No person being the pledgee of stock or bonds, to whom stock or bonds shall have been transferred as security, shall be permitted to vote upon such stock or bonds, or give a proxy to vote to any other person than the pledgor or some person designated by him; and such pledgee shall issue a proxy to such pledgor, or any person designated by him, whenever requested so to do. No person having the right to vote upon stock or bonds shall sell his vote, or issue a proxy to vote upon such stock or bonds, to any person for any sum of money or anything of value whatever. Any person offering to vote upon stock or bonds owned by himself, shall, if required by any inspector of election, or any stockholder in such corporation, take and subscribe the following oath or affirmation: "I, _____, do solemnly swear (or affirm) that in voting at this election I have not, either directly or impliedly, received any promise, or any sum of money, or anything of value whatever, to influence the giving of my vote or votes at this election." And any person offering to vote as agent, attorney, or proxy for any other person, shall, if required by any inspector of election or any stockholder of such corporation, take and subscribe the following oath (or affirmation): "I, _____, do solemnly swear (or affirm) that the stock or bonds upon which I shall vote at this election, are, to the best of my knowledge and belief, truly and in good faith owned by the persons in whose names they now stand; and that I have neither directly nor indirectly nor impliedly given any promise, or any sum of money, or anything of value whatever, to induce the giving of the authority to vote upon such stock or bonds to me." The inspectors at any such election are authorized to administer the aforesaid oath or affirmation, and said oath and said proxies shall be filed in the office of said corporation. Any person who shall swear or affirm falsely in taking the oath or affirmation prescribed by this Act shall be guilty of perjury. Any person violating any of the other provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not exceeding one year, or by a fine not exceeding five thousand dollars, or by both such fine and imprisonment.

§ 2. This Act shall take effect immediately.

AN ACT

To regulate the transportation of freight by railroad corporations.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SEC. 1. Every railroad corporation shall give to all persons reasonable and equal terms, facilities and accommodations for the transportation of themselves, their agents and servants, and of any merchandise or other property of every kind and description, upon any railroad owned or operated by such corporation and for terminal handling, the use of the depot and other buildings and grounds of such corporation, and at any point where its railroad shall connect with any other railroad, reasonable and equal terms and facilities of interchange, and shall promptly forward merchandise consigned or directed to be sent over another road connecting with its road, according to the directions contained thereon or accompanying the same.

§ 2. No railroad corporation shall charge or receive for the transportation of freight to any station on its road a greater sum than is charged or received for the cotemporaneous transportation of the like class and quantity of freight from the same original point of departure to a station at a greater distance on its road in the same direction. Two or more railroad corporations, whose roads connect, shall not charge or receive for the transportation of freight to any station on the road of either of them, a greater sum than is charged or received for the cotemporaneous transportation of the like class and quantity of freight from the same original point of departure, to a station at a greater distance on the road of either of them in the same direction.

§ 3. No railroad corporation shall grant or allow to any person or association upon the transportation of freight, either directly or indirectly, any secret rate, rebate, drawback, unreasonable allowance for use of cars or any undue advantage whatever ; nor directly or indirectly charge to or receive from any person or persons, or association or corporation any greater or less sum, compensation or reward than is charged to or received from any other person or persons, association or corporation for like and cotemporaneous service in the receiving, transporting, storing, delivering or handling of freight, nor shall any railroad corporation charge more for transporting freight from any point on its line than a fair and just proportion of the price it charges for the same kind of freight transported from any other point.

Nor shall any railroad corporation charge more for transporting freight from one local station to another, or from a local station to a terminus, than they charge for a like and cotemporaneous service from one terminus to another.

§ 4. The car load is hereby made the unit of shipment, and no railroad corporation, nor two or more railroad corporations whose roads connect, shall charge or receive for the transportation of two or more car loads of freight a greater or less sum per car load than is charged or received for a single car load of a like class of freight for a cotemporaneous shipment between the same points upon such road or roads ; except that any railroad corporation of this State, whose terminus is upon or near the border of the State, when receiving freight by the train load, of not less than twenty cars, from a connecting road, not lying wholly within this State, consigned to a single point, and which involves no terminal handling at the point of reception on the part of such New York road, save attaching an engine to the already made up train, may make a difference in the rate per car load upon the freight so received equal to but not greater than the cost at such point of reception, of loading each car of an equal train with a like class of freight. In the construction of this Act the sum charged or received for transportation of freight shall include all terminal charges, and the road of a corporation shall include all the road in use by such corporation, whether owned or operated under a contract or lease.

§ 5. Any railroad corporation which violates any of the provisions of this Act, in addition to liability for all damages sustained by reason of such violation, shall be liable for each offence to a penalty of one hundred dollars, which may be recovered in an action of tort, in any country where such corporation has property, to his own use by the party aggrieved, or to the use of the State by the attorney-general, or to the use of the county by the district attorney of the county in which such violation was committed, provided, however, that no such action shall be maintained unless the same shall be brought within one year from the date of such violation.

§ 6. This Act shall take effect immediately.

AN ACT

To create a board of railroad commissioners, and to define and regulate their powers and duties.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SEC. 1. There shall be, in and for the State of New York, a board of railroad commissioners, consisting of three competent persons, one of whom

shall be known as chief railroad commissioner, and each of the others as associate commissioner, and who shall be appointed as follows: The governor shall, by and with the advice and consent of the senate, appoint, before the first day of June, in the year eighteen hundred and eighty, a chief railroad commissioner for the term of five years, one associate commissioner for the term of four years, and one associate commissioner for the term of three years, from the date of such appointment. And after such appointment first made, the governor, by and with the advice and consent of the senate, shall in each year that a vacancy occurs appoint or reappoint one commissioner after the year eighteen hundred and eighty, for the term of five years, to take the place of the outgoing commissioner. If any vacancy happens by resignation or otherwise, he shall in the same manner appoint a commissioner for the residue of the term, and he may, without the advice and consent of the senate, but only upon charges preferred, remove any commissioner. If the senate shall not be in session at the time any such vacancy shall occur or exist, the governor shall appoint a commissioner to fill the vacancy, subject to approval of the Senate when convened. Said board shall have a clerk, who shall be appointed by the Board, and whose duty shall be to keep a full and faithful record of the proceedings of said board, and file and preserve at the general office of said board, all books, maps, documents and papers intrusted to his care, and prepare for service such papers and notices as may be required of him by the commissioners, and perform such other duties as the board may prescribe; and he shall have power, under direction of the board, to issue subpoenas for witnesses, and to administer oaths in all cases pertaining to the duties of his office. Said board shall also appoint a marshal, whose duty it shall be to attend at the offices and at the meetings and examinations of said board, as required, and to serve notices and other papers, and perform such other duties as the board shall prescribe.

Said commissioners and clerk shall be sworn to the due and faithful performance of the duties of their respective offices before entering upon the discharge of the same, and no person in the employ of, or holding any official relation to, any railroad corporation, or owning stock in any railroad corporation, or who is in any manner interested in any firm or corporation having business relations with any railroad corporations, except the legitimate business of shipping and forwarding, shall hold either of said offices.

§ 2. The principal office of said board shall be at the city of Albany, but the said board may also establish a branch office at the city of New York and one at the city of Buffalo, if in their judgment such branch offices, or either of them, will be necessary for the proper and convenient

transaction of the business and duties of said board ; said officers shall be supplied with necessary stationery and appliances at the expense of the State.

§ 3. The chief commissioner shall preside at all meetings of the Board, and he shall be the principal executive officer thereof. Any two of said commissioners shall constitute a quorum, for the transaction of any of the business or duties of said board, and may hold meetings thereof, at any time or place within the State.

All examinations or investigations hereinafter provided for may be held and taken by and before any one of said commissioners, if so ordered and directed by the board or by the chief commissioner ; but the proceedings and decisions of said single commissioner therein shall not be deemed final and conclusive until approved and confirmed by the board.

§ 4. Said board of commissioners shall have power to administer oaths in all matters relating to their duties, and shall have the general supervision of all railroads and railways, and shall examine the same, and keep themselves informed as to their condition, and the manner in which they are operated, with reference to the security and accommodation of the public and the compliance of the several corporations with the provisions of their charters and the laws of the State; it shall also be the duty of said board of railroad commissioners to investigate the causes of any accident on a railroad, resulting in loss of life or injury to person or persons, which in their judgment shall require investigation, and the result of such investigation shall also be reported upon in the annual report of the commissioners to the legislature; and it is hereby made the duty of the general superintendent or manager of each railroad in this State to inform the chief commissioner of any such accident, and the facts relating to the same, immediately after its occurrence. Before proceeding to make any such examination or investigation of the condition or operation of any railroad in this State, or any accident thereon, in accordance with this Act, said board shall give reasonable notice to the corporation, person or persons conducting and managing the same, of the time and place of entering upon the same. And such board of railway commissioners, or the chief commissioner thereof, shall have power, for the purposes provided for in this Act, to examine the books and affairs of any railroad company or corporation, or to compel the production of copies of books and papers, subpoena witnesses, administer oaths to them, and compel their attendance and examination, as though such subpoena had issued from a court of record of this State. Whenever any such examination of the affairs of any railroad corporation shall take place in which such board will require the examination

of the books and affairs of such company or corporation, or the subpoenaing of witnesses who are in the employ of such company or corporation, the board or a commissioner thereof shall sit for such purpose in the city or town of this State where the principal business office of such railway corporation may be situated. The board of commissioners, however, shall have the power to require copies of books and papers, as provided for in this section, to be sent to them to any part of this State. And the provisions of this Act shall apply to all railroads and railways, and the corporations, receivers, trustees, directors or others owning or operating the same.

§ 5. Whenever, in the judgment of the board of railroad commissioners, it shall appear that any such corporation has violated any constitutional provision or law, or neglects in any respect or particular to comply with the terms of the Act by which it was created, or usurps any authority not by its act of incorporation granted, or refuses to comply with the provisions of any of the laws of the State, they shall give notice thereof in writing to such corporation, and if the violation or neglect is continued after such notice, the board may forthwith present the fact to the attorney-general, who shall take such proceedings thereon as he may deem expedient.

§ 6. Whenever, in the judgment of the board of railroad commissioners, it shall appear that repairs are necessary upon any railroad within this State, or that any addition to the rolling stock, or any addition to or change of the stations or station houses, or that additional terminal facilities shall be afforded, or that any change in the rates of fare for transporting freight or passengers, or that any change in the mode of operating the road and conducting its business, is reasonable and expedient in order to promote the security, convenience and accommodation of the public, the said board shall give notice and information in writing to the corporation of the improvements and changes which they adjudge to be proper; and if the corporation refuses or neglects to make such repairs, improvements and changes within a reasonable time after such notice and information, the said board shall present the facts in the case to the attorney-general for his consideration and action: and shall also report the same facts in a special report, or in the annual report of said board, to the legislature.

§ 7. Every railroad corporation shall at all times, on request, furnish to board of railroad commissioners any necessary information required by them concerning the condition, management, and operation of its railroad, and particularly with the rates for transporting freight and passengers upon its road, and other roads with which its business is connected; and such railroad corporation shall also at all times, on request, furnish to such board of

railroad commissioners copies of all contracts and agreements, leases or other engagements, by such corporation entered into, with any person or persons, corporation or corporations.

§ 8. No request or advice of the said board of railroad commissioners, or investigations made by the same, shall have the effect to impair in any manner or degree, the legal duties and obligation of any railroad corporation, or its legal liability for the consequence of its acts, or of the neglect or mismanagement of any of its agents or servants.

§ 9. The board of railroad commissioners shall make an annual report to the legislature of their doings, including such statements, facts, and explanations as will disclose the actual working of the system of railroad transportation in its bearing upon the business and prosperity of the State, and such suggestions as to the general railroad policy of the State, or the amendment of its laws, or as to the condition, affairs or conduct of any of the railroad corporations, as may seem to them appropriate. And the said board of railroad commissioners shall be charged with the duty to recommend and draft for the legislature such bills as will, in their judgment, protect the people's interest in and upon the railways of this State. And it shall likewise be the duty of such commissioners to take testimony upon, and have hearing for and against, any proposed change of the law relating to any railway or railways, or proposed change of the general law, in relation to railways, if requested to do so by the committee on railroads of the senate or assembly, or by the governor, and such commissioners shall thereupon report their conclusions, in writing, to such committee, or governor, from whom the request to act emanated.

§ 10. The board of railroad commissioners shall have power to prescribe the form of the report required to be made by railroad corporations, under section thirty-one of chapter one hundred and forty of the laws of eighteen hundred and fifty, entitled "An Act to authorize the formation of railroad corporations, and to regulate the same," and may from time to time make such changes and additions in such form, giving to the corporation six months' notice of any such changes and additions which would require any alteration in the method or form of keeping their accounts, and the report by said "Act to authorize the formation of railroad corporations, and to regulate the same," of eighteen hundred and fifty, required to be made to the State engineer and surveyor, shall hereafter be made to such board of railroad commissioners. Until such board of railroad commissioners, however, shall change or alter the form of the report, the form now prescribed by law shall be followed by the said railroad corporations. And the board of railroad commissioners shall on or before the fifteenth day of September

in each year, furnish, upon request, blank forms of such returns. When the return received from any corporation is defective, or believed to be erroneous, the board shall notify the corporation to amend the same within fifteen days. The board shall prepare such tables and abstracts of all the returns as they shall deem expedient, and which shall be contained in their annual report, and their annual report shall be transmitted to the legislature on or before the second Monday in January each year, and which annual report shall, among other things, contain an abstract of the proceedings of the board during the preceding year; and also drafts of bills which have been submitted by the board to the legislature, and the reason therefor, and such suggestions as to the workings of the laws of the State, on the subject of railways and transportation, as to the said board may seem proper and expedient. The originals of the returns as amended, subscribed and sworn to, as now provided by law, or as hereafter to be provided by said board of railroad commissioners, shall be preserved in the office of the board.

§ 11. There shall be printed, in addition to the regular number prescribed by law, as a public document of the State, five hundred copies, to be bound in cloth, of the annual report of railroad commissioners, with the returns of the corporations, for the use of the said commissioners, and to be distributed by them to such railroad corporations and other bodies or persons interested therein, in the discretion of the said commissioners.

§ 12. The annual salary of the chief commissioner shall be five thousand dollars, and of the associate commissioners four thousand dollars each, and the chief clerk two thousand dollars, and of the marshal fifteen hundred dollars, payable quarterly from the treasury of the State. The said board shall also have power to employ such additional clerical force, not exceeding in number three persons however, at salaries not to exceed in the aggregate the sum of two thousand dollars per annum, as they may find it necessary for the purpose of preparing the reports required by this Act, and such other clerical duties as may be required of them by said board. And such board of railroad commissioners shall have the power to employ engineers, accountants, and other experts, whose services they may deem to be of temporary importance in the conducting of any investigation herein provided: and they shall have procured for them by the State the necessary books, maps and statistics incidentally necessary for the discharge of the duties of their office; and they shall also have reimbursed to them quarterly the expenses and disbursements they may have incurred in travelling, and for the necessary travel expenses and disbursements of their clerks, marshal, and of experts; which expenses, however, shall not exceed five hundred dollars a month; and a statement of such expenditures, in detail, shall accompany the annual report.

§ 13. The annual total expense of the board of railroad commissioners, including salaries for commissioners' clerks and marshal, and additional clerical force, printing of additional copies of report, as provided by section thirteen, and all other expenses incident to said board, excepting only rent of office, shall not for the first year exceed the sum of forty-five thousand dollars, and for all subsequent years not exceed in any one year the sum of forty thousand dollars; and such expenses shall be borne by the several corporations owning or operating railroads, according to their means, to be apportioned by the comptroller and State assessors, who, on or before the first day of July in each year, shall assess upon each of said corporations its just proportion of said expenses, one-half in proportion to its income for the next year preceding that in which the assessment is made, and one-half in proportion to the length of road, and such assessment shall be collected in the manner provided by the law for the collection of taxes upon corporations.

§ 14. Said railroad commissioners, or either of them, shall have the right to enter and remain in the offices and depots and upon the railroads of any railroad company within this State, in the performance of official duties; but neither the said railroad commissioners nor their clerks, agents or experts, shall accept or receive any pass, present, gift, or gratuity of any kind, from any railroad corporation, and the acceptance by them, or either of them, of any such presents, gifts or gratuity, shall be a misdemeanor, and punishable as such.

§ 15. All Acts and parts of Acts inconsistent with the foregoing provisions are hereby repealed.

§ 16. This Act shall take effect immediately.

AN ACT

To amend an Act entitled "An Act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Section thirty-one of the Act entitled "An Act to authorize the formation of railroad corporations, and to regulate the same," passed April 2, 1850, is hereby amended so as to read as follows:

§ 31. Every railroad corporation formed under this Act shall make an

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annual report to the State Engineer and Surveyor of the operations for the year ending with the thirtieth day of September, and of its condition on that day; which report shall be verified by the oaths of the president or treasurer and the general manager or acting superintendent of operations, and shall be filed in the office of the State Engineer and Surveyor by the twentieth day of December in each year, and shall state:

TABLE A.

STOCK AND DEBT.

1. Capital stock as authorized by charter.
2. Capital stock as since fixed.
3. Capital stock subscribed.
4. Capital stock paid in.
5. Funded debt.
6. Unfunded debt.
7. Total funded and unfunded debt.
8. Average rate per annum of interest on funded debt.
The several amounts shall be stated in two columns, one of which shall be headed and contain "Amount at last report," and the other "Amount by this report."
9. Number of shares of ordinary stock.
10. Number of shares of preferred stock.
11. Total shares of stock, of par value of \$ per share.
12. Number of stockholders.

A tabular statement of the funded debt as "by this report" shall be given, showing:

- (1) Each kind of bonds or obligations.
- (2) If, and how secured.
- (3) Date of issue.
- (4) When due.
- (5) Rate of interest.
- (6) Amount of authorized issue.
- (7) Amount actually issued.
- (8) The total amounts.

The amount of unfunded debt as "by this report" shall be stated under the following classification:

- (1) Notes and acceptances.
- (2) Pay rolls and operating expenses unpaid.
- (3) Amounts due other railroad corporations.
- (4) Interest due and unpaid.
- (5) Dividends unpaid.
- (6) Open accounts.
- (7) Other items (if any).

TABLE B.

COST OF ROAD AND EQUIPMENT.

13. Grading and masonry.
14. Bridges.
15. Superstructure, including rails.
16. Passenger and freight stations, buildings and fixtures.
17. Engine and car houses, machine shop, machinery and fixtures.
18. Land, land damages and fences.
19. Locomotive engines and fixtures.
20. Passenger and baggage cars.
21. Freight and other cars.
22. Engineering and agencies.
23. Any other items entering into the cost or value.
24. Total.

The several amounts shall be extended into three columns; the first to be headed and to contain "Amount at last report;" the second, "Amount since charged;" and the third, "Amount by this report."

A statement shall be given showing briefly (by numbers, by quantities, or by descriptions) the additions, or betterments, made to the road and equipment, representing the several amounts that may appear in the column headed "Amount since charged."

TABLE C.

CHARACTERISTICS OF ROAD.

25. Main line of road (stating termini).
26. Main line laid.
27. Branches owned.
28. Lines leased or operated.
29. Total main line, branches owned, and lines leased or operated.
30. Second track on main line.
31. Second track on branches owned, or lines leased or operated.
32. Total second track.
33. Third track on main line.
34. Fourth track on main line.
35. Third and fourth track on branches owned, or on lines leased or operated.
36. Sidings and turnouts on main line.
37. Sidings and turnouts on branches owned, and on lines leased or operated.
38. Total sidings.

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T

40. Ga

41. M

42. Sa

43. W

44. W

45. W

46. W

47. L

48. L

49. L

50. M

51. N

52. N

53. N

54. T

55. A

56. N

57. A

58. N

59. N

60. N

61. N

62. I

39. Aggregate of all tracks on main line, branches owned, and lines leased or operated, including all sidings and turnouts.

The amounts shall be extended into three columns; the first headed and to contain "Length in this State;" the second, "Length out of this State," and the third, "Total length."

A tabular statement should be given, showing the termini of each branch, and of each line leased or operated, its length and the length of double track, including sidings and turnouts on each.

40. Gauge of track.
 41. Miles of steel rails (reduced to single track) in main line.
 42. Same in branches owned, and lines leased or operated.
 43. Weight per yard of steel rails in main line.
 44. Weight per yard of iron rails in main line.
 45. Weight per yard of steel rails in branches, etc.
 46. Weight per yard of iron rails in branches, etc.
 47. Length in feet of iron bridges on all lines.
 48. Length in feet of wooden bridges on all lines.
 49. Length in feet of pile or trestle work in wood on all lines.
 50. Miles of telegraph wire owned and operated.

TABLE D.

EQUIPMENT.

51. Number of locomotive engines for passenger service.
 52. Number of locomotive engines for freight service.
 53. Number of locomotive engines for switching service.
 54. Total number of locomotive engines *owned*.
 55. Average weight (with tender, and fuel and water) of each kind of locomotive engines.
 56. Number of engine houses.
 57. Aggregate number of stalls in same.
 58. Number of first-class passenger cars.
 59. Number of second-class and emigrant passenger cars.
 60. Number of baggage, mail and express cars.
 61. Number of freight and other cars *owned*, viz.:
 (1) Box freight.
 (2) Platform or flat.
 (3) Cattle.
 (4) Oil.
 (5) Coal.
 (6) Service.
 (7) Other kinds.
 62. Number of above freight cars with eight wheels.

- 63. Number of above freight cars with four wheels.
- 64. Number of locomotive engines controlled by the corporation for use, but *leased* instead of owned.
- 65. Number of freight cars controlled by the corporation for use, but *leased* instead of owned.

TABLE E.

MISCELLANEOUS.

- 66. Number of machine and car shops.
- 67. Number of elevators or grain houses.
- 68. Aggregate capacity of same in bushels.
- 69. Number of freight or cattle yards, of two acres or more in area.
- 70. Aggregate area of same, in acres.
- 71. Miles of track laid in same.
- 72. Average number of persons directly employed by the company during the year.
- 73. Aggregate amount of salaries and wages paid to same for the year.

TABLE F.

DOINGS OF THE YEAR IN TRANSPORTATION AND TOTAL MILES RUN.

- 74. Number of miles run by passenger trains.
- 75. Number of miles run by freight trains.
- 76. Number of passengers (all classes) carried in cars.
- 77. Number of tons, of 2,000 pounds, of freight carried in cars.
- 78. Number of miles travelled by passengers, or number of passengers carried one mile ("*total movement of passengers*").
- 79. Number of miles one ton of freight was carried, or number of tons carried one mile ("*total movement of freight*").
- 80. Average rate of speed (miles per hour) adopted by ordinary passenger trains, including stops.
- 81. Rate of speed of same when in motion.
- 82. Average rate of speed adopted by express passenger trains, including stops.
- 83. Rate of speed of same when in motion.
- 84. Average rate of speed adopted by freight trains, including stops.
- 85. Rate of speed of same when in motion.

TABLE G.

DESCRIPTION OF FREIGHT MOVED.

- 86. Products of the forest (tons).
- 87. Products of animals.
- 88. Vegetable food.
- 89. Other agricultural products.

- 90. Manufactures.
- 91. Merchandise.
- 92. Other articles.
- 93. Total number of tons.

TABLE H.

AMOUNTS MOVED OF CERTAIN SPECIFIED ARTICLES INCLUDED IN FOREGOING DESCRIPTION.

- 94. Flour (tons).
- 95. Grain.
- 96. Live stock.
- 97. Fresh or pickled meats, and provisions.
- 98. Petroleum and other oils.
- 99. Lumber.
- 100. Pig and bar iron and steel, and iron and steel rails.
- 101. Iron and other ores.
- 102. Coal.

TABLE I.

DIRECTION AND DESTINATION OF FREIGHT MOVED.

- 103. Tons of through, going east and south.
- 104. Tons of through, going west and north.
- 105. Total tons through.
- 106. Tons of way, going east and south.
- 107. Tons of way, going west and north.
- 108. Total tons way.

TABLE J.

DESTINATION OF PASSENGERS CARRIED.

- 109. Number of through passengers.
- 110. Number of way passengers.

TABLE K.

AVERAGE RATE CHARGED PER TON PER MILE ON FREIGHT.

- 111. On first class.
- 112. On second class.
- 113. On third class.
- 114. On fourth class.
- 115. On all other classes.
- 116. Average on all classes.

The amounts shall be stated in two columns; one headed and to contain "Rate on through;" and the other "Rate on way;" and the "Average on all classes," shall be stated with reference to the respective amounts of each class actually moved.

- 117. General average of through and way.



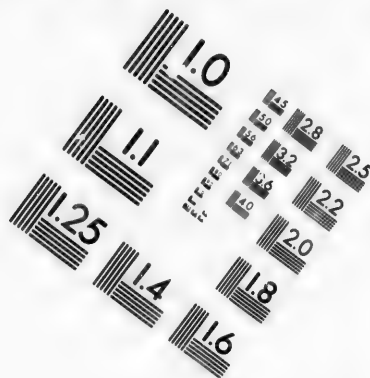
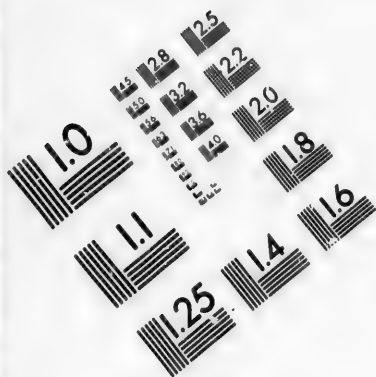
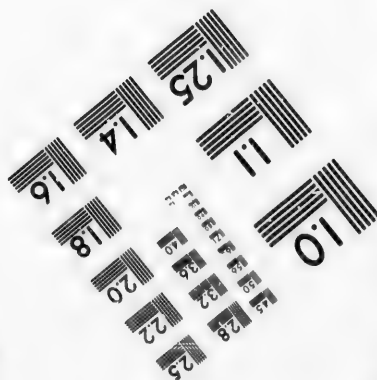
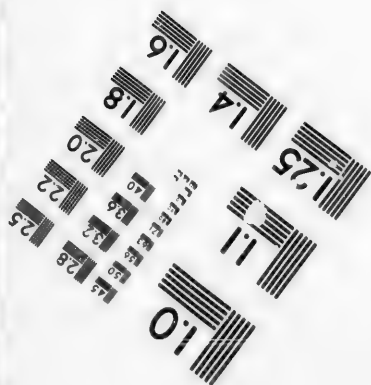
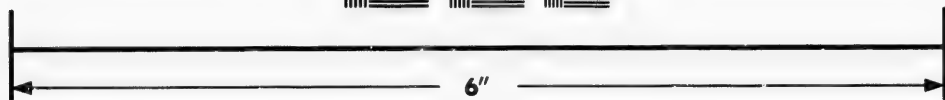
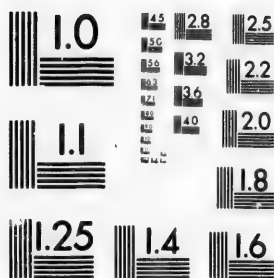


IMAGE EVALUATION TEST TARGET (MT-3)



Photographic Sciences Corporation

**23 WEST MAIN STREET
WEBSTER, N.Y. 14580
(716) 872-4503**

18 20 22 25 28 32 36 40 45 50

10 15 20 25 30 35 40 45 50 55 60

TABLE L.

AVERAGE RATE CHARGED FOR PASSENGERS PER MILE.

- 118. For first class.
- 119. For second class.
- 120. For emigrants.
- 121. Average for all classes.

The amounts shall be stated in two columns ; one headed and to contain "Rate for through," and the other "Rate for way;" and the "Average for all classes," shall be stated with reference to the number of each class actually carried.

- 122. General average for through and way.

TABLE M.

EXPENSES OF MAINTAINING ROAD AND REAL ESTATE.

- 123. Repairs of road-bed and railway other than cost of rails.
- 124. Repairs of bridges.
- 125. Repairs of telegraph lines.
- 126. Cost of rails used in repairs.
- 127. Tons of steel rails used in repairs.
- 128. Length of same (miles and fractions).
- 129. Tons of iron rails used in repairs.
- 130. Length of same (miles and fractions).
- 131. Repairs of buildings.
- 132. Repairs of fences and gates.
- 133. Taxes on real estate.
- 134. Total expenses of maintaining road and real estate.

TABLE N.

EXPENSES OF REPAIRS OF MACHINERY AND CARS,

- 135. Repairs of engines and tenders.
- 136. Repairs of passenger and baggage cars.
- 137. Repairs of freight cars.
- 138. Repairs of tools and machinery in shops.
- 139. Incidental expenses, including oil, fuel, clerks, watchmen, &c, about shops.
- 140. Total expenses of repairs of machinery and cars.

TABLE O.

EXPENSES OF OPERATING THE ROAD.

- 141. Office expenses, stationery, etc.
- 142. Agents and clerks.
- 143. Labor in loading and unloading freight.

144. P
145. P
146. C
147. P
148. P
149. C
150. P
151. P
152. P
153. C
154. P
155. P
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144. Porters, watchmen, flagmen and switchmen.
145. Fuel and water station attendance.
146. Conductors, baggagemen and brakemen.
147. Enginemen and firemen.
148. Fuel, cost and labor in preparing for use.
149. Oil and other lubricants, and waste.
150. Loss and damage of goods and baggage.
151. Damages for injuries of persons.
152. Damage to property, including damages by fire, and cattle killed on road.
153. General superintendence, or salaries of general officers.
154. Hire of cars.
155. All other items.
156. Total expenses of operating the road.

The amounts stated under the several subdivisions of "expenses of maintaining road and real estate," "expenses of repairs of machinery and cars," and "expenses of operating the road," are to be those *chargeable against* the year's business, and are to be stated without reference to the amounts *actually paid* therefor during the year. The amounts (other than the *weight and length* of rails) shall be tabulated and divided between "Passenger transportation" and "Freight transportation," and so far as items do not pertain specifically to either one particular kind of transportation the division shall be made in the ratio of the "total movements" of passengers and freight.

TABLE P.

AMOUNTS PAID FOR CERTAIN SPECIFIC PURPOSES INCLUDED IN FOREGOING.

157. Stationery and printing.
158. Advertising.
159. Legal expenses and counsel fees.
160. Insurance.
161. Rents.
162. Tolls.
163. Contributions and subscriptions.

TABLE Q.

TRANSPORTATION EXPENSES FOR THE YEAR.

164. Expenses of maintaining road and real estate (*Table M*).
165. Expenses of repairs of machinery and cars (*Table N*).
166. Expenses of operating the road (*Table O*).
167. Total transportation expenses,

The division between "Passenger transportation" and "Freight transportation," hereinbefore provided for, shall be brought forward with the subdivisions of "transportation expenses," and the resulting division of "transportation expenses" shall be shown.

TABLE R.

RESULT OF THE BUSINESS OF THE YEAR.

The earnings are to be stated without reference to the sums *actually received* during the year.

168. Earnings.

- (1) From passengers.
- (2) From freight.
- (3) From mails.
- (4) From rents.
- (5) From other sources (in detail).
- (6) Total earnings.

169. Charges against earnings.

- (1) Transportation expenses (167).
- (2) Interest.
- (3) Rentals of leased lines.
- (4) Dividends—date, and rate per cent.
- (5) Other items (in detail).
- (6) Total charges against earnings.

170. Resulting surplus (*or deficiency*) for the year.

TABLE S.

"INCOME" OR "PROFIT AND LOSS" ACCOUNT.

171. Balance, surplus (*or deficiency*) from previous year.
172. Surplus (*or deficiency*) for this year as shown by Table R.
173. Any other items of gain or loss (to be added or deducted.)
174. Balance, surplus (*or deficiency*) now.

This balance of "Income," or "Profit and Loss," must be that which appears on the proper side of the "Balance Sheet" hereinafter provided for.

TABLE T.

BALANCE SHEET AT THE END OF YEAR.

175. The "Balance Sheet" must be tabulated, and contain on the one side a statement of the assets of the company at the close of the year, as follows :

- (1) Cost of road and equipment, as shown "by this report" in Table B.
- (2) Cost of other lines owned, which may not have been included in preceding; stating each line separately.
- (3) Permanent investments (in detail).
- (4) Cash on hand.
- (5) Cash assets (classified).
- (6) Due from other railroad corporations.
- (7) Fuel and supplies on hand.
- (8) Sinking Fund (if any).
- (9) Other assets (classified).

And on the other side a statement of the liabilities of the company at the same time, as follows :

- (1) Capital stock, (as "by this report" in Table A.)
- (2) Funded debt, (as "by this report" in Table A.)
- (3) Unfunded debt, (as "by this report" in Table A.)
- (4) Other liabilities (classified).

The balance of "Income," or "Profit and Loss," must appear on the side on which it may fall according to whether it be "surplus" or "deficiency," and the two sides of the "Balance Sheet" must then be equal in footing.

The "Balance Sheet" in each report, after the first one shall have been made under the provisions of this Act, shall be tabulated with double columns on each side; in one of which columns, properly headed, shall appear the amounts at the end of the year for which such report is made, and in the other the amounts of the corresponding items as they appear in the report for the previous year.

176. The number of persons injured in life or limb, and the cause of the injury, and whether passengers or persons employed, and whether any such accidents have arisen from carelessness or negligence of any persons in the employment of the corporation, and whether such persons are retained in the service of the corporation.
177. The names and residences of the directors of the corporation.
178. The names and official addresses of the executive and general officers of the corporation.
179. It shall be the duty of each corporation to transmit to the State Engineer and Surveyor the following maps, profiles and drawings exhibiting the characteristics of their roads; the map to show the

length and direction of each straight line, and the length and radius of each curve ; also the point of crossing of each town and county line, and length of line in each town and county, accurately determined by measurements to be taken after the completion of the road. The profiles to be on the map, and shall show the grade line and surface of ground in the usual method, also the elevation of grades above tides at each change in the inclination thereof. The maps and profiles to be made on a scale of five hundred feet to one-tenth of a foot ; vertical scale of profiles to be one hundred feet to one-tenth of a foot. For all roads or parts of roads now done, or in operation, and for which such maps and profiles have not already been returned, they shall be returned on or before the first day of January next ; and for all roads now in progress, or which may hereafter be constructed, the said maps and profiles shall be returned within three months after the same or any portion thereof shall be in use.

180. It shall be the duty of the State Engineer and Surveyor to arrange the information contained in such report in tabular form, and prepare the same, together with the said reports, in a single document, for printing, for the use of the legislature, and report the same to the legislature as early as may be practicable in each year.
181. The provisions of this section shall apply to all existing railroad corporations ; and the report of the said existing railroad corporations, made in pursuance of the provisions of this section, shall be deemed to be a full compliance with any existing law or resolution requiring annual reports to be made by such corporations, or either of them.

Your committee are aware that the publication of the following profile maps—without showing the means used by railroads to overcome grades, the effect of concentration of grades, the extent to which fuel and its cost enters into the question, and a proper discussion of the relation of grade generally and cost of fuel to cost of haul—may be misleading. But we have neither time nor sufficient data to prepare such discussion. The following maps were furnished by the respective roads.

